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## **TRANSCRIPT OF RECORD**

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**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1938**

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**No. 436**

**NATIONAL LABOR RELATIONS BOARD, PETITIONER**

**vs.**

**FANSTEEL METALLURGICAL CORPORATION**

**Vol. III**

**ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT  
OF APPEALS FOR THE SEVENTH CIRCUIT**

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**PETITION FOR CERTIORARI FILED OCTOBER 22, 1938  
CERTIORARI GRANTED NOVEMBER 21, 1938**



IN THE  
**United States Circuit Court of Appeals**  
**For the Seventh Circuit**

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No. 6606

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FANSTEEL METALLURGICAL CORPORATION,  
*Petitioner,*

*vs.*

NATIONAL LABOR RELATIONS BOARD,  
*Respondent.*

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*Counsel for Petitioner:*

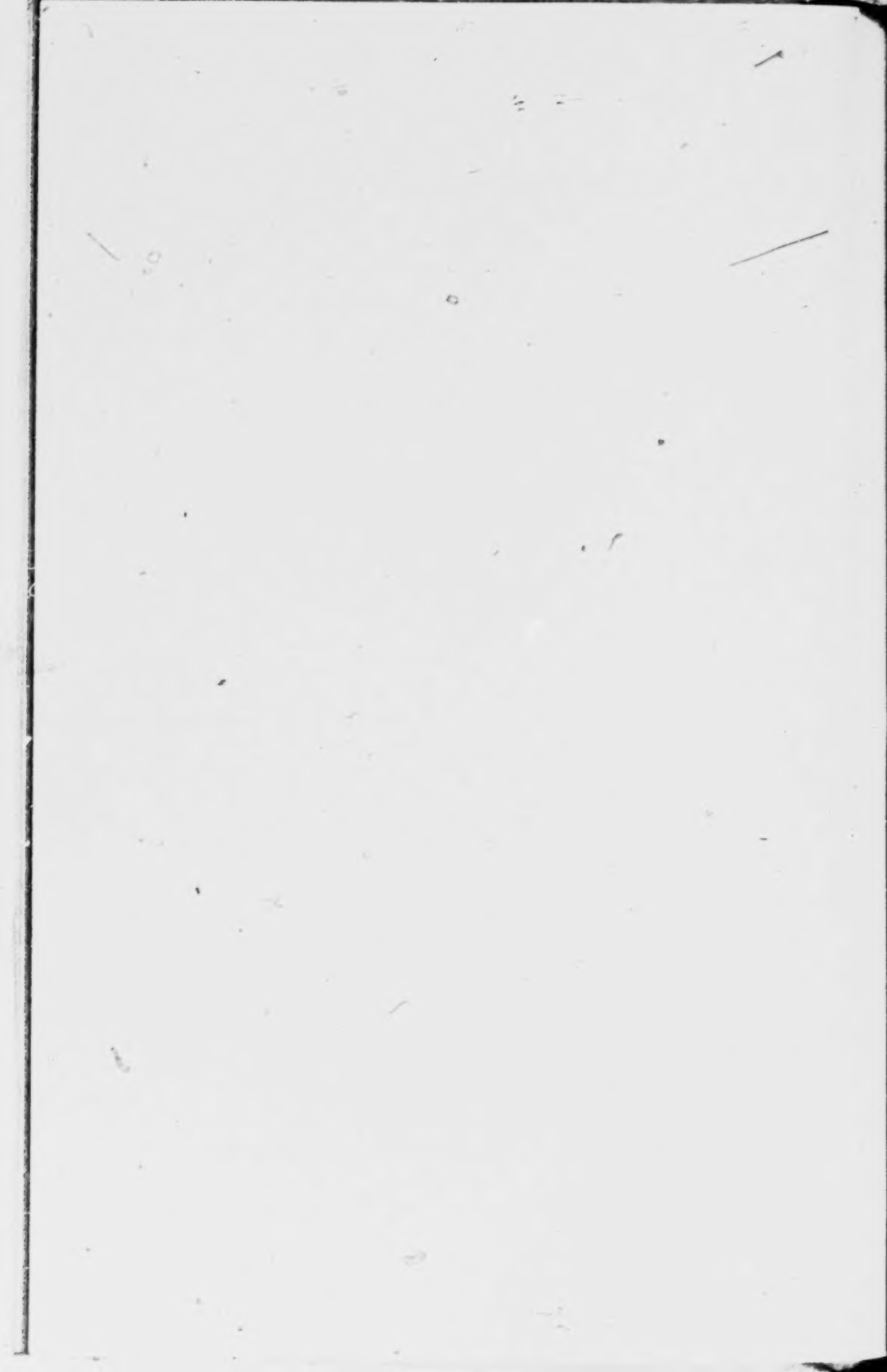
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MR. DON M. PEEBLES,  
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MR. CHARLES FAHY,

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Petition for Review of order of the National Labor Relations Board.



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ALBERT GROLL, recalled as a witness for the respondent and having been previously duly sworn, further testified as follows:

*Direct Examination.*

Q. (By Mr. Keele.) Mr. Groll, you testified in this case before, didn't you?

A. Yes, sir.

Q. In what capacity have you served the Fansteel Metallurgical Corporation?

A. Tool room foreman.

Q. Tool room foreman?

A. Yes, sir.

Q. You have been a tool room foreman since November, 1936, is that right?

A. Yes, sir.

Q. Is that correct?

A. Since the 16th.

Q. Since the 16th of November, 1936?

A. Yes, sir.

Q. Now, Mr. Aigner was employed in that department, was he not?

A. Yes, sir.

2542 Q. And Mr. Hoff?

A. Yes, sir.

Q. What were the duties of those two men, Aigner and Hoff?

A. Mr. Aigner was janitor who swept the floor. He just swept the floor only.

b. What are the dimensions of that department?

A. About 30 feet wide by about 135 to 140 feet long.

Q. Were his activities confined merely to that department?

A. Yes, sir.

Q. Merely to that area of 30 by 135 feet?

A. Yes, sir.

Q. What did Mr. Hoff do?

A. He took care of the tool crib.

Q. What do you mean by the tool crib?

A. The place where we keep the tools, such as drills, reamers, tool bits, and everything that would be used by the machines on that floor.

Q. Small tools?

A. Yes.

Q. Tools that are not set up but small enough to be placed back in a certain place when they have finished using them?

A. Yes.

Q. Do you have a check system on the tools in the tool crib?

A. No, sir.

2543 Q. Well, then exactly what did Mr. Hoff's duties consist of?

A. Well, when a man wanted a drill or a reamer, he just came in and asked Mr. Hoff for it.

Q. And Hoff handed it out?

A. Yes, sir.

Q. And made no record of it?

A. No.

Q. And when the man was through with it he brought it back to Hoff and Hoff replaced it?

A. Yes.

Q. Is that all he did?

A. Well, once in awhile I would give him a requisition to go over to the stock room for a piece of stock and they generally delivered it to me. He just took the message over there.

Q. He acted as a messenger boy?

A. Yes, sir.

Q. That is the extent of the duties of those two men?

A. Yes.

Q. Did you ever recommend the dismissal of those two men?

A. Yes.

Q. In September, did you ask for their replacement?

A. Well, I asked for the replacement of Mr. Hoff.

Q. To whom did you address that requisition?

2544 A. To Mr. Anselm.

Q. What reason did you assign for your request?

A. Well, I would like to have a younger man that I could have take care of that crib and also the tool grinding. Sometimes when the tools would be brought back, they would need grinding.

Q. Sharpening?

A. Sharpening. A younger man, I could have broken him in on a grinder to take care of that work, which he had plenty of time to do.

Q. And did you believe that Hoff was unable to do both of those jobs, that is, grinding and handling the crib?



A. Yes, sir.

Q. Is that the only reason that motivated you in requesting his replacement?

A. That is all.

Q. Was he replaced at that time?

A. No, sir.

Q. How old a man, in your opinion, was he, if you knew, in your opinion, how old was he or how old is he now?

A. I think he is in the neighborhood of around 72 or 74, somewheres in that neighborhood.

Q. How old was Aigner, or how old is he?

A. Well, at that time I heard he was around about 75 or 76.

Q. Were there any other men in that department in 2545 their seventies?

A. No, sir.

Q. Now, after February 26th or during the period of February 17th to the 26th, at any time after February 17th—let me put it that way—did you make any request for the return of Hoff and Aigner, Mr. Groll?

A. After the 26th?

Q. Well, after the 17th, let me say; after the men seized the plant.

A. Not until I started up down there again after the 27th.

Q. Did you then make a request for the replacement?

A. No, sir, I never made a request for them.

Q. What did you do with reference to them?

A. Well, Mr. Anselm asked me for a list of the men I wanted back in my department and I gave him the list.

Q. Yes. Were the names of those men on it?

A. No, sir.

Q. Why not?

A. Well, because I thought I would like to have a younger man on there so he could take of that whole department, which he could do.

Q. That was the only reason?

A. Yes, sir.

Q. It was not any question involved there as to whether or not those men were members of Lodge 66, whether 2546 Hoff and Aigner were?

A. No.

Q. Did you know?

A. I didn't know, no, sir.

Q. Did Mr. Anselm say anything to you or did you say

anything to him about that list containing the names of men who were in Lodge 66 or failing to contain in that list the names of men in Lodge 66?

A. No, sir.

Q. There was no discussion on that point?

A. No, sir.

Q. All right. Now, who replaced those men?

A. I put one man in there, a fellow by the name of Ed. Tompkins.

Q. What does he do in there?

A. Well, he takes care of the crib, sweeps the floor, and also takes care of production jobs that I have there.

Q. In other words, this man Tompkins now does the job that both those men did and does production work in addition?

A. Yes, sir.

Q. What is his age?

A. About 23.

Mr. Keele: You may cross-examine.

*Cross-Examination.*

Q. (By Mr. Walsh.) Mr. Groll, what changes were 2547 made in the tool room after the plant reopened?

A. What do you mean, any change? How do you mean?

Q. Were there any changes made?

A. I beg your pardon?

Q. Were there any changes made?

A. No, sir, there were no changes whatsoever. We have worked on the same basis we always have.

Q. Now, are the dies being made there that were being made there before?

A. Dies are all being made on the outside.

Q. Then, there was a change made, was there?

A. Yes, sir, in that respect.

Q. Well, now, I believe you have among other people in the tool room Rayner, Wells, Moxey, DuBois and Kondrath?

A. No, Kondrath didn't work for me.

Q. He didn't work for you?

A. No.

Q. And the other four did, is that right?

A. Yes, sir.

Q. Now, did you get new men to replace those fellows?

A. I only have taken two.

Q. You haven't replaced all four jobs, is that right?

A. No, sir.

Q. Whose jobs have you replaced?

A. DuBois and Rayner.

2548 Q. And Wells' and Moxey's jobs haven't been filled, is that right?

A. That is right.

Q. For what reason have they not been filled?

A. That work is being done on the outside.

Q. What work is that?

A. Well, such as swaging dies, heading work, and so forth.

Q. Wells and Moxey were making swaging dies?

A. Wells was, yes, sir, but Moxey was not making swaging dies.

Q. Well, you must have other work being done on the outside, don't you?

A. I have.

Q. What other work?

A. Swaging dies are made on the outside and a lot of lathe work and a lot of machine work.

Q. But the work these two men were doing was not swaging dies or lathe work, was it?

A. Who?

Q. Moxey, for instance?

A. No.

Q. Well, what work were they doing then?

A. Moxey made a lot of small heading dies for me.

Q. Is that work now being done on the outside?

A. No, sir.

2549 Q. Who is doing that work?

A. Elmer Rehmer.

Q. He is an old employee that returned to work, is he?

A. Yes.

Q. What work was Moxey doing?

A. Making heading dies.

Q. Who is making those now?

A. Elmer Rehmer.

Q. So Rehmer is now doing the work that Wells and Moxey did do, is that right?

A. He is doing the work that Moxey did.

Q. Well, who is doing the work that Wells did?

A. Nobody is doing that. Wells' work, he worked with Berquist and Hook. He worked with these two men on repairs and the grinding of terminals in sintering frames.

Q. Now, I believe at one time you had a dispute with DuBois about cutting off a bar, did you not?

Mr. Swiren: That is objected to. That is not proper cross-examination. That was not gone into in the direct.

Mr. Walsh: We went into this quite thoroughly the other day.

Trial Examiner Dudley: I believe Mr. Swiren brought that out on cross-examination sometime ago, and it was not a part of the direct then, either.

Mr. Swiren: No, that was a question of threats. 2550 That was in connection with threats that had been made with respect to discharging employees in connection with union activities, and I brought out what the alleged threats were and it turned out they were not connected with union activity at all.

Mr. Walsh: Well, this is the other half of that dispute.

Mr. Swiren: That was cross-examination of Mr. DuBois in connection with his contract.

Mr. Walsh: Well, this is cross-examination of this witness.

Mr. Swiren: I insist it is not cross-examination in any way.

Trial Examiner Dudley: The objection is overruled.

Mr. Walsh: Let us have this department head tell us about it.

A. I had a piece of steel and had DuBois making some rolls that we use in rod pullers, and there was quite a bit of work to be done on these rod pullers. I had a piece of steel about three and a half inches in diameter. I told him to put that piece of steel in the saw and saw off this steel and he could work on his other work at the same time at the bench.

Well, I went back there to the saw later on and he had his saw in there and he was sitting on a chair. I asked him to go back to work on the bench. He says he isn't running 2551 two machines at one time. I says, "Ray, I don't consider a man working here is running two machines at one time." I says, "You don't do it any place else. You don't do it in any place." I says, "I don't mean if a man has got a piece of steel he is waiting for or something like that, but as long as you have other work to do, and you have a big piece of steel like that, I expect you to go back on your bench."

Q. When your steel is sawed off it will fall on the floor and the saw will stop. It doesn't require any attention whatever.

Q. There is nothing that could happen to the saw if there is no one there to attend to it, is that right?

A. That is right.

Q. Nothing could happen to the steel, if there is no one there to attend it, is that right?

A. That is right.

Q. Now, how far is it from DuBois' bench to the saw?

A. About 60 feet.

Q. And you want him to run a machine at his bench and run the saw at the same time, is that right?

A. Well, he didn't have no machine on his bench. He had a lot of bench work there. This was laying out his work and getting ready for drilling.

Q. Supposing a belt would stick on that saw, what would happen?

2552 A. It would come off. That's all.

Q. Then, what would happen?

A. Then, the saw would stop.

Q. Supposing the steel fell out of the saw?

A. It would not fall out if the man clamped it in there tight.

Q. It would after it was cut off, wouldn't it?

A. The piece that was sawed off would fall on the floor.

Q. Supposing that hit some one?

A. It had only 14 inches to fall on the floor and there was nobody back there back of the saw.

Q. Then, I think you had a discussion about the running of two machines, didn't you?

A. No.

Q. What was the discussion about?

A. I told him to lay his piece of steel in the saw and go back on his bench and do his other work.

Q. What did he say to you?

A. He thought he was running two machines and I told him I didn't expect him or anybody else to run two machines but I don't think it is necessary for a man to put a piece of steel in the saw that size and stand there and wait until it is done.

Q. Yes.

A. They don't do it in any other shop.

2553 Q. Did he say anything to you about it?

A. Well, he considered he is running two machines, but afterwards he went back.

Q. Did you discuss anything else with him at that time?

A. No, sir.

Q. Where had you worked before you came here?

A. The Achme Machine & Tool Company in Chicago.

Q. How long were you there?

A. I was there about five or six months.

Q. When did you leave the Achme?

A. On about the 14th day of November.

Q. Two days before you came here?

A. Yes, sir.

Q. Did you leave that place to come to the Fansteel Metallurgical Corporation?

A. Yes, sir.

Q. Where did you work before you worked for the Achme?

A. Oakes Products Corporation.

Q. How long did you work at Oakes?

A. About six and a half years.

Q. You had some labor trouble over there at Oakes, did you not?

Mr. Swiren: That is objected to.

Mr. Walsh: That is cross-examination. I have a right to test the witness' credibility.

2554 Mr. Swiren: I have a right to talk to the Examiner without being interrupted. That is not material at all to this plant. Whether the Oakes plant has labor trouble or not is not one of the issues here.

Trial Examiner Dudley: It may be admitted.

Mr. Swiren: I think it ought to be confined to direct contact with this witness and not some other corporation.

Trial Examiner Dudley: You may answer, Mr. Groll.

What is the question, Mr. Reporter?

(The question was read.)

A. I didn't, no.

Q. (By Mr. Walsh.) Well, the company had some trouble, didn't it?

A. Yes.

Q. You assisted in the company's affairs during the conduct of that affair, did you not?

A. Not as a strike. I was in charge of the tool room. I was master mechanic of tools and dies.

Q. I see. And that is where the trouble broke out, wasn't it?

A. No, sir.

Q. Where did the trouble break out at Oakes?



A. In the polishing room.

Q. Did you have any supervision of that at all?

A. No, sir.

2555 Q. And did you bring in extra workers to carry on the business of the company during the progress of that strike?

Mr. Swiren: That is objected to. That is not material to the situation here.

Trial Examiner Dudley: The objection is overruled.

Q. (By Mr. Walsh.) You may answer.

A. Did I bring in extra workers? I don't understand what you mean by extra workers.

Q. Well, let us put it very frankly; did you use any strike-breakers?

A. I beg pardon?

Q. Did you use any strike-breakers?

A. No, sir.

Q. You didn't use any in your department?

A. No, sir.

Q. Do you know whether the company used any?

A. No, sir.

Q. Did they shut down their plant during the strike?

A. No, sir.

Q. They kept right on working?

A. Yes, sir.

Q. Did they hire anybody to work in there while the strike was in progress?

Mr. Swiren: Just a minute. May we have an objection noted to this entire line of questioning? It is not material, what the Oakes Company did.

2556 Trial Examiner Dudley: You may show your objection.

Q. (By Mr. Walsh.) You may answer.

A. Just the regular employes we had there.

Q. And no strike-breakers at all?

A. No, sir.

Q. No extra employes?

A. No, sir.

Q. Of course, you are here to tell us the truth, are you, Mr. Groll?

A. Yes, sir.

Q. You think you are telling us the truth, do you?

A. I know it to the best of my ability.

Q. Of course, I don't want to confuse you. I just want



to find out what the facts are. Where did you work before you went to Oakes?

A. The Cincinnati Victor Company.

Q. Where is that?

A. At Cincinnati, Ohio.

Q. What did you do there?

A. Tool room foreman.

Q. How long were you there?

A. Two years.

Q. Did you leave there to go to the Oakes Products Corporation?

2557 A. Yes, sir.

Q. How long a time intervened between the time you were with the Cincinnati Victor Company and the time you went to Oakes Products?

A. I left the Oakes Products on the 27th of February, 1930 and I started out at Oakes Products on the 1st of March.

Q. You made a mistake; you said you left Oakes Products, I understood, and I think you meant you left the Cincinnati Victor Company.

A. I left the Cincinnati Victory Company to go to Oakes Products.

Q. Now, you had some labor trouble when you were at the Cincinnati Victor Company, did you not?

A. No, sir.

Q. Not during the time you were there, is that right?

A. I never did. We never did have any at that company.

Q. All right. How many men are employed in the tool room now, Mr. Groll?

A. Eleven.

Q. How many were employed there before the trouble commenced?

A. About 16 or 18. 16.

Q. So there are five jobs that are not filled, is that right?

A. Yes.

2558 Q. How many of those 11 men are men who have been hired since February 26th?

A. Four. In fact, I got two departments. In the tool room I only have eight.

Q. That is all.

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) What was your last answer?

A. I have eight in the tool room and three in the screw room.

Q. I see. You have two departments?

A. Yes.

Q. Ed. Ruck was under your jurisdiction, was he not?

A. Yes, sir.

Q. He was not re-employed, was he?

A. No, sir.

Q. When you submitted the list of names to the superintendent for re-employment, did you include Ed. Ruck's name?

A. I don't think I did.

Q. Did you include Rayner?

A. No, sir.

Q. Did you include Wells?

A. No, sir.

Q. Moxey?

A. Yes, sir.

Q. DuBois?

2559 A. No, sir.

Q. Why didn't you include those men, Mr. Groll?

Mr. Swiren: That is objected to. That is not part of the direct examination. The direct examination was confined to two men.

Trial Examiner Dudley: It may be admitted.

A. What was the question?

(The question was read.)

A. Well, because them men didn't seem to want to cooperate with me the way I would like to have it.

Q. (By Trial Examiner Dudley.) In what way did they evidence their lack of cooperation, Mr. Groll?

A. Well, I would ask them to do something and they would go about it in their own way to do it, and the time they would take to do it would be so long to do it. They wanted to leave the department whether a job was in a hurry or not. They simply left the department and would be gone.

Q. Well, Moxey has been there 24 years, has he?

A. I wouldn't say that, I don't know.

Q. So for this lack of cooperation with you, you felt they had better not be returned to their work, is that right?

A. That is right.

Q. Are they all good mechanics?

A. Well, from my past experience I would say I have saw a lot better.

2560 Q. You have seen better mechanics?

A. Yes.

Mr. Swiren: I suggest, Mr. Examiner, that we ought not have any comments or remarks from the audience here. This ought to be treated by them as seriously as it is. They may not agree with the opinions, and yet they can get on the witness stand if Mr. Walsh wants to call them.

Trial Examiner Dudley: You may proceed.

Mr. Walsh: I move that counsel's remarks be physically stricken from the record.

Mr. Keele: Well, you will admit there was a demonstration here?

Trial Examiner Dudley: I will leave the remarks in the record but I do not know as to the demonstration.

Q. (By Mr. Walsh.) I suppose you have seen better foremen than you are, probably, from time to time, have you?

A. Probably, yes.

Q. The variations in these mechanics and other mechanics that you have seen are purely personal variations, are they not?

A. No, I would not say they are.

Q. Were they as a class of mechanics, of a lower grade than most mechanics?

A. Well, from the class of work that they done it doesn't require a mechanic; what I mean by that, a first class 2561 tool and diemaker.

Q. Does not require a first class worker. Is that right?

A. I beg pardon.

Q. You say it does not require a first class worker?

A. Very little of it requires a first class man.

Q. Are any of these men we have been discussing here first class men?

A. Well, I never had enough work from them to say, but on certain jobs, I would give them, the way they went about their job and the time they would take to do the job, I judged from that.

Q. Yes. Of course, you had been there only just about 90 days, hadn't you, when the trouble broke out?

A. Yes.

Q. From November 16 to February 17.

A. Just about 90 days.

Q. And you, of course, during that period of time had an opportunity to observe these men perform all the tasks which they formerly had to perform, is that right?

A. Yes.

Q. And you were able at that time to form an opinion that the men who were not recalled were not good workmen, is that right?

A. Well, they would not do the work just the way I would ask them to go about it and with the time it would take 2562 them to do a job, I thought it was too long.

Q. Of course, your objection was mainly that of doing it the way you wanted it done, is that right?

A. Not doing it the way I wanted it done, and the time it would take them to do it, and not stay on the job. Whenever they got tired they would just get up and walk away in another department.

Q. All right. The work these men were doing was not production work, was it? I mean by that, they didn't produce great quantities of any kind of a thing, did they?

A. No.

Q. There were many and unusual kinds of jobs to be done, were there not?

A. Well, unusual kinds, I would say, yes. Not out of the ordinary, though.

Q. Now, you had never worked in a factory and worked tantalum, had you?

A. No.

Q. And you had never worked in a factory that had worked tungsten before, had you?

Mr. Swiren: I object to that. The man's experience is not for the Board to judge.

Trial Examiner Dudley: The objection is overruled.

A. Well, in the class of work I have done, I have worked a lot of steels and brass and tantalum metal and from 2563 what I saw up there, there is a lot of drawing work to it, such as drawing dies, work I can be able to take care of, and as far as blanking dies for tungsten or such small dies is concerned, as we have, I think I am capable of making them.

Q. (By Trial Examiner Dudley.) However, you had never seen any work done on this kind of metal before you had come to this plant, had you?

A. No, sir.

Q. You had never seen any work done on tantalum or tungsten?

A. No, sir.

Q. You had never had any experience in making tools and things such as that are used to work this particular kind of metal, had you?

A. Yes, I have made all kinds of tools.

Q. Did you ever make any tools to make tantalum?

A. Well, tools that I have made could be used for working tantalum.

Q. Where did you make tools that were used for working tantalum?

A. Well, I say they could be used if they had to be used.

Q. Oh, I see. That is all.

*Redirect Examination.*

Q. (By Mr. Keele.) Did your department have anything whatsoever to do with the tantalum or tungsten departments?

2564 A. It had nothing to do with the tantalum. Oh, once in awhile we will make a small blanking die for tungsten, such as a little disk.

Q. That is the only connection, is it?

A. Yes, sir.

Q. So the questions just put to you with reference to working these tools were prompted by Mr. Walsh's information with reference to the way the plant is worked there, is that right?

A. Yes.

Q. Was Mr. DuBois a first class workman?

A. A first class workman?

Q. Yes.

A. Well, he could work if he wanted to.

Q. I see.

A. And if he didn't want to, well—

Q. And he was quite an expert in not wanting to, wasn't he?

A. Yes, sir.

Mr. Walsh: I object to that unless you say what happened.

Q. (By Mr. Keele.) Well, for instance, an example of that would be his wish for the 40 minutes required to saw that steel bar through, is that right?

A. He was sitting there waiting for it, yes, sir.

Q. How long did it take, do you know?

A. Well, I couldn't tell you exactly but based on 2565 experience I would say it would take 30 or 40 minutes to saw off a piece of steel. You can stretch the job out if you want to, by how much pressure you put on the blade.

Q. And he was sitting there watching the saw work.

A. Yes, sir.

Q. All that operation consisted of was a saw going through a piece of steel and the only thing that could happen there, as I understand it, is that the blade might come off, the saw might break, or the steel could be sawed through, none of which will do any damage, is that right?

A. That is right.

Q. And it is the regular practice, isn't it, in machine shops or tool rooms for a man sawing through a good sized piece of steel, to go back to his own work?

A. Yes, in all shops I have been working in, or had charge of.

Q. Was Mr. DuBois or you the foreman there that day?

A. I was.

Q. Oh! So, it was really a question under the practice as to whether your orders were to be carried out or his wishes, is that right?

A. Yes, sir.

Q. And there was some doubt about it, as it developed?

A. As far as he was concerned, there was, yes.

Q. Was there a deliberate effort in your opinion to 2566 slow down the productivity or the operation of that tool room in January, 1937?

A. To slow it down?

Q. Yes. To do less work than would normally be done, or could be done.

A. Well, I was trying to build the speed up.

Q. Well, I am asking you if there was a deliberate effort to slow it down on the part of these men?

A. Yes.

Q. On what do you base that statement?

A. Well, from what I would get. I would go around and show a man how speeds and the feeds of a machine would run, and I would set it and I would go back and it would be back to one notch feed.

Q. Well, what does that mean. We don't know.



A. It was a deliberate holding back.

Q. In other words, you would get the speed up to a proper speed and come back and find it was set at a lower speed?

A. Yes.

Q. Were there many instances of that?

A. Quite a few.

Q. Well, about how many?

A. Well, I had trouble with that all the time in getting my work out.

Q. Who were the men that did that, or some of them?

2567 A. Well, I just couldn't say who did it, who told them to set it down.

Q. Well, who actually were operating the machines where the speed was reduced against your orders?

A. I had most of that done on my shaper work. Gilbert Haney, and Joe Petraitis worked on those machines.

Q. Anyone else?

A. Well, there were several jobs. I had one job on some big disks we were spacing off. I had one man, he could do the job in three hours, and another man it would take ten to twelve hours to do it.

Q. Was that a question of his actual work or the speed at which he set the machine?

A. According the way he would set the machine.

Q. It was not a question of his manual effort?

A. No.

Q. Or skill?

A. No, sir, it was just a matter of setting the feed on the machine.

Q. Did you ever learn whether any orders were given to slow down the speed of the machines?

A. Yes.

Q. Who gave those orders, do you know?

A. No, I do not.

Q. You don't know that?

2568 A. No.

Q. But you did find out that an order had been given?

A. I heard there were orders given out to slow down.

Mr. Walsh: I object to that unless he states who told him.

Mr. Keele: Well, this is the first objection on the hearsay rule.

Mr. Walsh: Well, he can tell who told him.



Q. (By Mr. Keele.) Who told you that?

A. Well, I can't recall the man's name. The man that really told me was the man I hired on the 17th of February. He came in and asked me for a job and I hired him. He said he understood that he was not allowed to run two notches feed on a machine. He said, "God help you if you do." He said, "You will run one notch and one notch only."

Q. That was on the shaper?

A. Yes, sir.

Q. That was the day the men took over the plant?

A. Yes, sir.

Q. That was in the morning.

A. Well, I heard this man say that, he said it to me. I hired him the day before that and he came to work. I hired him on the 16th and he came in on the 17th.

Q. Did he say where he got that information?

A. No, sir, he didn't say.

2569 Q. He said that was on his understanding, did he?

A. That was his understanding, yes. He was not allowed to take two notches, or he wasn't allowed to take a two-notch feed on that machine.

Q. Did you tell him to run two notches?

A. No, sir. I told him I expected him to do what a machine would do. If he didn't understand the speeds and the feeds I would help him out.

Q. Now, Mr. Groll, you said you worked for the Achme.

A. Achme Machine & Tool Company.

Q. Yes. Isn't it a fact that they had a strike on February 15th, 1892?

A. The Achme Machine & Tool Company?

Q. Yes. Do you know anything about that?

A. No, sir.

Q. Do you know about the strike they had in 1907?

A. No, sir, I never was up in this part of the country at that time. I just came up to Waukegan in 1930.

Q. Well, have you ever been in the United States Army?

A. No, sir, I wasn't. I wasn't old enough at the time of the war.

Q. You knew the United States Army had acted as strike breakers in the Pullman strike, did you?

A. I have heard of it.

Q. Now, that company down in Cincinnati that you 2570 worked for what company was that?

A. The Cincinnati Victor Company.

Q. Do you recall the strike they had back in 1899?

A. No, sir.

Q. Do you know that they had had one back there?

A. No, sir.

Q. Did you ever use the bus system in Chicago?

A. Well, no, I don't think I have.

Q. You have never ridden on the buses?

A. No.

Q. Was that because they had had a strike and you didn't want to be mixed up with anybody that had a strike?

A. No. I always drive my own car.

Q. Oh, I see. Is that made by General Motors?

A. Yes, it is.

Q. That is all.

*Recross Examination.*

Q. (By Mr. Walsh.) Were you ever admitted to practice law?

A. No.

*Redirect Examination.*

Q. (By Mr. Keele.) Mr. DuBois is, though, isn't he?

A. I couldn't say.

Q. Haney was rehired, wasn't he?

A. Yes.

Q. He was one of the men who had cut down the 2571 speed on his machine?

A. Yes.

Q. And Petraitis was not rehired?

A. That is right.

Q. And he was one of the men who had cut down the speed on his machine, is that right?

A. Yes, he was.

Q. What is the name of the man you hired on February 16th who told you nobody in the plant was allowed to operate over one speed on the machine?

A. A man by the name of Parker. I forget what his first name is.

Q. Is he still working there now?

A. No, sir. On the day of the 17th he left and I talked to him and met him coming out of the plant and he said he didn't want to be mixed up in anything like that. He wanted to get out. He came out with his tool box.

Q. I see. You say you have never seen him since?

A. No, sir.

Q. These facing disks, who were the men who took 12 hours to face these disks, and who were the men who only took three hours to do it?

A. A fellow by the name of Mertins took three hours. I forget what his first name is. And the other man I had in there by the name of Ted Ohlson, why it took him around 2572 ten to twelve hours to do it.

Q. Ten to twelve hours?

A. Yes, sir.

Q. The same work.

A. The same work and the same machine.

Q. The same amount of work to be done?

A. Yes.

Q. It took Ohlson twelve hours to do it and Mertins three hours. Is that right?

A. Three hours to do the job.

Q. Now, are these instances of Haney and Petraitis cutting down the speed of the machines in facing up these disks the only instances you know of that slowed down the work there?

A. Well, there were a lot of instances that went right on through.

Q. Do you know whether Ohlson had any difficulties with his machine, or anything like that?

A. Well, I know he didn't because lots of times I would go there and look for him and couldn't find him. He would be gone. The type of this disk that we had was used for a lapping and I wanted an exact finish on it so it would hold the lapping compound in the little grooves that would be in there, and by setting the speed on this machine going across the disks it would give that to me.

Q. Now, you, of course, reported this to the plant 2573 superintendent on the regular written reports, did you not?

A. Yes, sir.

Q. And those reports would be a matter of record in the office, in the company's office?

A. No, sir.

Q. They would not?

A. No, sir.

Q. What would become of those reports?

A. It was just a word of mouth.

Q. You didn't write out any report of this, of this slowing down that was going on in your department, is that right?

A. That is right.

Q. You don't know whether this department operated like that before you came there or not, do you?

A. I never had my foot in the plant until the 16th of November.

Q. That is all.

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) Mr. Groll, may I ask you how much salary you are now paying to Mr. Edward Tompkins?

A. 50 cents an hour.

Q. Do you know offhand what Aigner and Hoff got?

A. I think Hoff got 45 cents, and I think Mr. Aigner got the same amount.

Q. Did Alfred Johnson work under your supervision?

2574 A. No, sir.

Q. Did he work near Mr. DuBois' machine?

A. No, he didn't. He would work on it once in awhile. Once in awhile he would. He would work on the shaper or some place like that.

Q. Where did he work?

A. He worked for Mr. Phillips in a sort of experimental room that we have in the back of the office.

Q. Was the work that Mr. Johnson did visible from Mr. DuBois' machine?

A. It was, yes.

Q. How far away was it?

A. Oh, sometimes he would be about 20 feet, 15 or 20 feet.

Q. Did Mr. Johnson operate a machine?

A. He would.

Q. Did he make dies?

A. No, he did special work, he had special work that he worked on.

Q. Under whom did he work?

A. Under Howard Phillips, Master Mechanic.

Q. That is all.

Q. (By Mr. Keele.) Are you talking about John Kondrath or Alfred Johnson?

A. He is talking about Alfred Johnson who works 2575 for Howard Phillips.

Q. (By Trial Examiner Dudley. Alfred Johnstone, it is.

A. Oh, that is a different man. I am thinking of Alft. Simondson.

Q. (By Mr. Keele.) The testimony you gave is incorrect, then?

A. Yes.

Q. (By Trial Examiner Dudley.) Well, does Alfred Johnstone work under your supervision?

A. Yes.

Q. What kind of work does he do?

A. Very poor. I have had him working on several jobs. I had him on one job of graphite moulds that we made and I had to have him do it over, do these moulds over three times.

Q. Did he finish these graphite moulds?

A. Yes, sir.

Q. And did you have to take any work from him that he had started and give it to somebody else to do?

A. Well, he worked there for me awhile but it seemed as though he could not do the work, and he always had trouble. It seemed as though he had trouble with his wife. He would work a day and be off a day. Maybe he would be off two or three days and toward the end there, I couldn't depend on the man so I had to dismiss him.

Q. How long did he work for you?

2576 A. It must have been a matter of about four weeks.

Q. About when was it that you dismissed him?

A. It must have been along about the middle of December.

Q. That is all.

*Recross Examination.*

Q. (By Mr. Walsh.) Would he stay in the department?

A. Yes, he seemed to stay there pretty good but it seemed as though the man was not mechanic enough.

Q. He was kind of an old man, was he?

A. No, he didn't seem to be so old. I imagine he was a man around 47.

Q. Did he cause any trouble with the men, or quarrel with the men, or anything?

A. No, not that I know of. He stayed and paid attention to his work.

Q. Well, you would not call him an A-1 mechanic, would you?

A. No, I would not.

Q. Was he pretty efficient about what work he did know how to do?

A. No, he was not.

Q. So generally he was a pretty poor class worker. He had had a lot of trouble with his family, you say?

A. Yes.

Q. And he would not show up?

A. That's right.

2577 Q. And you finally fired him, is that right?

A. That is right.

Q. I suppose you reported from time to time to the plant superintendent that he was not a good workman and ought to be let go, is that right?

A. Well, I have, yes.

Q. He was there, I guess, when you came there, was he?

A. He was.

Q. Do you know how long he had been there?

A. No, sir.

Q. Did you tell Mr. Anselm you were going to let him go?

A. No, I think I just went ahead and let him go. Mr. Anselm gave me understanding there that I was running that department and what I did was up to me.

Q. That is all.

*Redirect Examination.*

Q. (By Mr. Keele.) In other words, that man's work was not good and when you got ready to fire him, you fired him?

A. That's right.

Q. That is all.

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) I think you testified that Du Bois did not stay at his machine. Did Johnstone stay at his machine?

A. He did pretty good.

2578 Q. That is all.

*Recross Examination.*

Q. (By Mr. Walsh.) You didn't see him wandering through the plant looking things over, did you?

A. No, sir.

Q. That is all.

Mr. Keele: That is all.

Trial Examiner Dudley: We will adjourn now until 1:45 p. m.

(Whereupon at 12:15 p. m., a recess was taken until 1:45 o'clock p. m.)

After Recess.

(The hearing was resumed at 1:45 o'clock p. m., pursuant to the taking of recess.)

Trial Examiner Dudley: The hearing will be reconvened.

Mr. Keele: I will call Mr. Lawrence Bristol.

LAWRENCE BRISTOL, called as a witness for the respondent, being first duly sworn, testified as follows:

*Direct Examination.*

Q. (By Mr. Keele.) State your name.

A. Lawrence Bristol.

Q. Where do you live, Mr. Bristol?

A. Wadsworth, Illinois.

Q. You are employed by the Fansteel Metalurgical Corporation?

A. Yes.

Q. How long have you been employed by that company?

A. I have been there since the 10th of November, 1937.

Q. Are you an officer of the Rare Metal Workers of America?

A. Yes.

Q. What office do you hold?

A. Treasurer.

Q. When were you elected?

A. I don't know the exact date but it was in May, around the first of the month or so; between the 1st and the 10th, I would say.

Q. Do you have charge of the funds of the union?

A. Yes.



Q. You have sole charge of those funds?

A. Yes.

Q. Will you state whether or not the union has any funds at the present time?

A. Yes, they have.

Q. What has been the source of those funds?

A. I don't know what you mean.

Q. Where have they come from?

A. From the members of the union.

Q. What?

A. From the members of the union for dues.

2580 Q. Has that been your sole or only source of funds?

A. Yes.

Q. Has the company or anyone in connection with the management of the company donated or given any money to the union?

A. No.

Q. Has it given it any help at any time?

A. No.

Q. Has it interfered in any way or influenced or attempted to interfere or control of the union?

Mr. Walsh: I object to the question on the ground it calls for a conclusion.

A. No.

Trial Examiner Dudley: I will let it in for such bearing as it may have.

Q. (By Mr. Keele.) There were some halls hired by the union for meeting places, weren't there?

A. Yes, sir.

Q. What?

A. Yes.

Q. What halls were they?

A. Holy Family Hall at Lincoln Street, North Chicago.

Q. Did the union pay for the use of those halls?

A. Yes, sir.

Q. How did they pay for the use of those halls?

A. By check.

2581 Q. Have you the cancelled checks with you?

A. Yes, sir.

Q. Will you produce them.

A. Yes. (Producing documents.)

Q. I show you respondent's exhibit 36 and ask you what that is?

A. This is a check for the meeting at Holy Family Hall on May 21st.

Q. In the sum of how much?

A. \$10.

Q. Payable to the Holy Family Church?

A. Right.

Q. And it is signed by you as treasurer?

A. Yes.

Q. Drawn on the First National Bank of Waukegan, dated May 21st, 1937, is that correct?

A.—Yes.

Q. I show you respondent's exhibit 38 and ask you to state what that is?

A. This is one made out to Bert Holt in charge of the North Chicago Auditorium.

Q. In the sum of what?

A. \$3.

Q. And that is dated June 1st and drawn on the First National Bank of Waukegan?

2582 A. Yes.

Q. What is that in payment of?

A. For the use of the hall on June 1st.

Q. I show you respondent's exhibit 37 and ask you what that is?

A. This is a check to the National Office Supply Company for our state seal.

Q. And that is dated June 1st?

A. Yes.

Q. In the sum of how much?

A. \$3.60.

Q. And is signed by you as treasurer?

A. That is right.

Mr. Keele: I move the admission of those documents in evidence.

Mr. Walsh: There is no objection.

Trial Examiner Dudley: They may be admitted.

(The documents referred to were marked RESPONDENT'S EXHIBITS 36, 37 and 38, Witness Bristol, and received in evidence.)

Mr. Keele: We ask leave, Mr. Examiner, to withdraw them and substitute photostatic copies in their place.

Trial Examiner Dudley: Leave is granted.

Mr. Keele: That is all.

*Cross-Examination.*

2583 Q. (By Mr. Walsh.) Did you bring all the checks of the organization?

A. Yes.

Q. Do you have any other checks that you haven't exhibited here?

A. I have one.

Q. To whom is that drawn?

A. Well, I was sick one day and so I sent another fellow out to get our union books for the treasurer's office and secretary and he paid for them out of his own money and I—

Q. You reimbursed him?

A. Yes.

Q. I presume these expenditures were made in pursuance of the by-laws of the lodge, were they?

A. Yes.

Q. And the money was appropriated by the membership, that is, the bills were submitted to the meeting and meeting authorized the treasurer to pay them, is that right?

A. Yes.

Q. You have proper authority I suppose to do that; you had proper authority at that time, did you? Your books indicate those bills had been voted on, is that right?

A. Yes. You see we have three trustees that O. K. those things.

2584 Q. This money you show as paid out here in these four checks—two for a hall rental and one for certain record books that were necessary for the business of the lodge, and this other check you haven't shown us but it is reimbursement to one of the members of the lodge—

A. Yes.

Q. Are those all the checks that the lodge has drawn?

A. That is all up to the present time.

Q. That is all you have written, is it?

A. Yes, it is all we have up to our last meeting.

Q. Those are all the expenditures that have been approved by the lodge?

A. That is all that checks have been written on.

Q. Oh, I see. Have other expenditures been approved with funds not yet paid?

A. No, it was all paid but we paid it in cash.

Q. And you are the treasurer of the organization?

A. Yes.

Q. And you know what those payments are, do you not?

A. Yes.

Q. Well, can you tell me what the payments were?

A. Yes; \$10 to the State for our State charter.

Q. \$10 to the State for your State Charter?

A. Yes.

Q. What other payments have you made?

2585 I will have to look at the books to see whether there are any small ones or not. Yes (after examining the book) we had \$3.50 paid out for our union cards.

Q. The printing of the cards?

A. Yes.

Q. Then the \$10 and \$3.50 represents all the other payments that have been paid from the funds of the union, is that right?

A. Yes.

Q. Now, to whom was the \$10 paid?

A. Well, that was paid before I took the office of treasurer. They had a temporary treasurer.

Q. Who paid that, do you know?

A. Mr. Johnson.

Q. Mr. Johnson paid that?

A. Yes, sir.

Q. Did the union have funds with which to pay that at the time he made the disbursement?

A. Yes.

Q. The organization has those funds, is that right?

A. Yes.

Q. Now, did you have any expenses in connection with the election of officers?

A. No, none whatever.

Q. Did you make any payment to anybody for printing of ballots?

2586 A. No.

Q. Do you know whether the ballots upon which your name appeared as a candidate for treasurer were printed?

A. Yes, they were printed. Mr. Johnson and Mr. Sylvan took care of that.

Q. And did they ever make any claim against the association for reimbursement for the printing bill?

A. No, I think they did it themselves.

Q. They did that themselves, is that right?

A. I think so. I am not sure, but they were in charge at the time.

Q. Did they ever make any claim against the association for reimbursement for the printing bill?

A. No, I think they did it themselves.

Q. They did that themselves, is that right?

A. I think so. I am not sure, but they were in charge at the time.

Q. At least there is no evidence in the records of the union that they ever charged it against the Rare Metal Workers Union, is that right?

A. That is right.

Q. You have only had two meetings, I take it, outside of the building No. 14; one at the Holy Family Church and one at the North Chicago Auditorium?

A. That is right.

2587 Q. Now, I take it your counsel has not submitted his bill for the work that he did in obtaining your charter?

A. No.

Q. And helped you with the by-laws.

A. No.

Q. Did you help on the by-laws Committee?

A. No.

Q. Did you ever hear where Mr. Johnson or Mr. Berquist has those by-laws printed?

A. No, I never did.

Q. Are you sure those by-laws were not mimeographed?

A. I couldn't tell you.

Q. You know the difference, don't you, between printing and mimeographing?

A. I don't, no.

Q. Well, let's see here; do you remember what color ink was used on them?

A. It looked like carbon paper.

Q. It looked like carbon paper, did it?

A. Yes.

2588 Q. It looked like carbon paper, did it?

A. Yes.

Q. I will hand you what has been marked Board's Exhibit No. 33 and I will ask you whether the printing on the ballots looked like the printing on that paper?

A. I think it looked something like that, anyhow. As far as I can remember, it did. That was quite a while ago.

Q. Was the ink blue so it looked like blue carbon paper?

A. I don't know, but I think it looked like that.

Q. You think it looked like that?

A. I think so, yes.

Q. That is all.

Mr. Keele: That is all.

Q. (By Mr. Walsh.) Oh, pardon me. Just one or two more questions. Who asked you to come here today?

A. Who asked me?

Q. Yes.

A. Mr. Schulz.

Q. And Mr. Schulz is the secretary of Mr. Anselm?

A. I don't know. I guess so.

Mr. Swiren: I think Mr. Walsh may have heard, Mr. Examiner, that we haven't received any subpoenas yet.

Mr. Walsh: That is all.

(Witness excused.)

2589 ROBERT J. AITCHISON, recalled as a witness for the respondent, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Keele.) You testified before, Mr. Aitchison?

A. Yes, sir.

Q. Has the company, or have you, as an officer of the company, given any financial or other support to the Rare Metals Union?

A. No, sir.

Q. Has it attempted in any way to influence, control, dominate or interfere with the organization?

Mr. Walsh: I object to that question as calling for a conclusion.

Mr. Keele: Yes, that is what the statute states. It defines it in that way.

Trial Examiner Dudley: I will admit.

A. No, it is not.

Mr. Keele: That is all.

Mr. Walsh: That is all.

(Witness excused.)

A. J. ANSELM, recalled as a witness for the respondent, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Keele.) Mr. Anselm, you testified in this hearing before, have you?

2590 A. I did.

Q. To your knowledge has the company, or have you given any financial support or other kind of support to the Rare Metals Workers Union?

A. We furnished no support, financial or otherwise.

Q. Has the company or anyone connected with the management, as far as you know, attempted to interfere with, dominate, influence or control in any way the formation of that union?

A. Not that I know of.

Q. Have you attempted to in any way, as an employee of the company?

A. No.

Q. Has the company, to your knowledge, attempted to influence its activities, or control its activities?

A. Not to my knowledge.

Q. And did the company sponsor it?

A. They did not.

Q. Have you or anyone connected with the management, that you know of, threatened anyone with loss of jobs if they refused to join the Rare Metals Workers Union?

A. Not that I know of.

Q. Has the company, or have you, as plant superintendent, attempted in any way to put pressure in any form on anyone to join or refrain from joining that union?

A. Not to my knowledge.

2591 Mr. Keele: That is all.

*Cross-Examination.*

Q. (By Mr. Walsh.) Mr. Anselm, I believe you and I discussed this question the other day, and you told me, I think, at that time that you gave permission to post notices on the bulletin boards; you also gave them permission to use building No. 14; you also told them they might ask the mimeograph girl if she would run off their notices and ballots. You do



not by your answers to the questions here today imply that your testimony was wrong the other day; you do not want to change your testimony, do you?

A. No, I do not want to change it.

Q. So the questions you were asked by Mr. Keele, you answered them, having in mind the testimony you gave the other day, is that right?

A. If those questions were asked again I would not change the answers.

Q. Well, the manner in which the questions were asked gives apparently erroneous answers, is that right?

Mr. Swiren: I object to that. That is not true at all.

Mr. Walsh: Well, it would appear that the questions asked by Mr. Keele today would give different answers than the ones that were given the other day.

Mr. Keele: Oh, not at all.

Mr. Walsh: Well, I will withdraw that statement.  
2592 I do not want to get into any discussion.

Q. (By Mr. Walsh.) At least, you do not want to change the testimony today in any way from the testimony you gave the other day.

A. Not a bit.

Mr. Walsh: That is all.

Mr. Keele: That is all.

(Witness excused.)

Mr. Swiren: Mr. Examiner, I asked the reporter this morning to mark these photographs Respondent's Exhibits Nos. 10, 11 and 12 respectively, and we have withdrawn the originals and with the permission of the Examiner we will substitute copies. I just want the record to show that those are substitutes, that they are admitted in place of the originals. Is that all right?

Trial Examiner Dudley: I said the other day that they would be admitted, I think.

(The documents referred to were received in evidence and marked RESPONDENT'S EXHIBITS NOS. 10, 11 and 12, Witness Anselm.)

Mr. Keele: Mr. Examiner, at this time we offer certain statutes of the State of Illinois which were in force on February 17th, 1937 and prior thereto and are still in force. There are two sections, particularly, that we are interested in in presenting this offer. One is known as Section 376 of  
2593 the Criminal Code of the State of Illinois. It is referred to as the Intimidation Section. The other is called by

some books Section 46, but in the book I have before me it is referred to as Section 139, and it is entitled, "Conspiracy to do Illegal Acts." We are not certain whether the Examiner or the Board will take judicial notice of the laws of the State of Illinois, the statutes, or whether it will not, and in order to avoid any misunderstanding about it we would like to have this identified and admitted in evidence. We have the book here, the printed book which contains those statutes and we have typed copies of the two sections in question and would like to introduce those and give Mr. Walsh an opportunity to compare them with the statutes themselves if he desires to. Both sections were in force on February 17th, 1937 and were in force for many years prior thereto and have been continuously in force since. It is the regular Conspiracy Section in the statutes of the State of Illinois commonly known among lawyers. So is the Intimidation statute which has been in force since 1874 continuously.

Now, the only question is that of procedure. We are not certain in our minds whether the Board will take judicial notice of the statutes of the State of Illinois, or whether it will not, but in order to avoid any discussion about it or any argument we are offering it, if there is no objection to the form in which we are offering it.

2594 Trial Examiner Dudley: I think you will be safe in believing the Board will take judicial notice of it, but at the same time they may be admitted as evidence to be sure that the Board takes actual notice of it.

Mr. Keele: Well, if they have a copy of the statutes before them it will save the Board looking them up.

Trial Examiner Dudley: They will be admitted in evidence as being convenient. I assume the typing is accurate.

Mr. Keele: We now offer Respondent's Exhibits Nos. 39 and 40 in evidence, being the two sections of the statutes I have discussed here.

Mr. Walsh: I make no objection to the form and manner in which the exhibits are offered, but I do object to their being received in evidence on the ground they are incompetent, irrelevant and immaterial to the issues before this Board.

Mr. Swiren: May I ask, Mr. Walsh, if you are questioning the accuracy of the copies of the laws, as we have copied them, or if you are questioning whether they were in force at the time or not?

Mr. Walsh: No, if you say they were in force at the time

or are in force now I will waive any objection to that, and if you say they were copied accurately I will take your word for it.

Trial Examiner Dudley: They may be received in evidence as Respondent's Exhibits Nos. 39 and 40.

2595 (The documents referred to were received in evidence and marked RESPONDENT'S EXHIBITS NOS. 39 and 40.)

Trial Examiner Dudley: Just off the record for a minute, Mr. Reporter.

(Discussion outside the record.)

A. J. ANSELM, recalled as a witness for the respondent, being previously duly sworn, testified further as follows:

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) Mr. Anselm, you have been sworn and you have testified before, have you not?

A. I have.

Q. The previous testimony is that the company recovered its buildings on February 26th, 1937, and Mr. Aitchison testified that on March 12th, 1937 the company's plants were fully manned and were in operation. I wonder if you will state for me the progress that was made in opening up your plants. What was your condition of employment and operations on March 1st and along at various times to March 12th, so that I can get the picture of the speed with which you picked up operations?

A. I would say no production on March 1st with the exception of the heading machines.

Q. About how many employees do you think you had working on March 1st?

2596 A. Oh, possibly on the clean-up squad and on this one item I just mentioned, possibly 35 or 40.

Q. How many do you think you had on March 3rd, that is two days later. It was on March 3rd you had a lot of checks given out to employees, I remember, and passes taken up.

Mr. Aitchison: The 5th was pay day instead of the 3rd.

The Witness: Pay day was on the 5th.

Q. (By Trial Examiner Dudley.) No pay was given out on the 3rd.

A. There was pay due on the 20th of February that could have been collected on the 2nd or 3rd, or 1st, for that matter. The regular pay for the first half of February would have been on the 20th and the three days, the 15th, 16th and 17th would have been due on March 5th. I think we were talking about March 3rd when we were talking about the pay days.

Q. Well, there were a number of men who had been in the strike who testified they got paid on March 3rd. That is what I had in mind. That is true, isn't it?

A. Yes. I would not say there was much change between the 1st and the 3rd.

Q. All right. When was the next change?

A. I think there was operations in the wire department on the 4th.

Q. March 4th.

A. Yes.

2597 Q. Do you remember about the number of employees that were working then?

A. No, I wouldn't know that.

Q. About how many men were there working in the wire department?

A. Oh, I don't know that. I would say by the 8th we had our glass in the buildings and the buildings were in pretty good shape again. We were moving along in production at the rate of 40 to 50 per cent of normal.

Q. (By Mr. Walsh.) May I inquire at this point, Mr. Examiner; was that all in departments?

A. I wouldn't say that, no. I wouldn't say we were uniformly in production in all departments.

Q. I just wondered, I just wanted to know if it was 40 or 50 per cent of the departments going, or 40 or 50 per cent production in all departments.

Q. (By Trial Examiner Dudley.) You mean 40 per cent or 50 per cent of your total?

A. Yes.

Q. About how many people do you think you had to work then?

A. I wouldn't know, Mr. Examiner.

Q. You had more than 40, I suppose.

A. Oh, yes.

Q. Did you have a hundred?

A. Pretty close to it. I think we had better slide  
2598 along until the 12th.

Q. No perceptible change between the 8th and 12th?

A. Oh, yes, a decided change between the 8th and 12th.

Q. A steady increase?

A. Yes.

Q. On the 12th, what was the condition?

A. Well, almost normal. We lacked a few here and there, but not many.

Mr. Aitchison: Of course, your laboratory workers and clerical workers and all that stuff, that would make a difference. They came in on the 27th.

Q. (By Trial Examiner Dudley.) They didn't come in before the 27th?

A. No. I am not giving you figures on those. I don't have them in my mind.

Q. There was some testimony here about a newspaper clipping and I believe a notice that you sent out on a certain date, or, rather, giving a certain date on which employees could return to work and get their back pay.

A. No, sir.

Mr. Swiren: I do not think there was any testimony about a notice. There was a notice to employees working.

Q. (By Trial Examiner Dudley.) Did you send out any notice?

A. (No answer.)

Mr. Swiren: Answer that, will you, so the record will show that?

2599 A. No, I didn't.

Q. (By Trial Examiner Dudley.) You sent that notice only to people who were already working?

A. Yes.

Q. Notice to them about pay checks that included the back pay?

A. It was a pay check that was just the back pay. It was covered for that purpose.

Q. My point is that you told people if they came back to work by a certain day you would pay them their back pay and yet you didn't tell them that until they already came to work?

A. I suppose we wanted to reimburse those that came back to work as well as those that came back to work up to the 12th.

Q. Well, did you or did you not give people who were not at work a chance to return to work by the 12th, if they wished to, and even get back pay?

A. We didn't send out that notice. We didn't send that out.

Q. And did you pass the word around by word of mouth?

A. I believe that letter covered it all.

Q. You saw on the cross-examination of a number of girls that Mr. Keele and Mr. Swiren brought out the fact that the notice apparently was an invitation to those people who 2600 read it to return to work.

A. I imagine the girls could so construe that notice but it was not a notice in the newspaper.

Q. Well now, you are stating that the notice itself was merely a letter attached to checks that were given to people who were already at work?

A. That is correct.

Q. And that means, then, that you didn't notify people by a notice which you mailed or by a newspaper notice telling them if they would return to work before the 12th you would give them their back pay?

A. No, we didn't.

Trial Examiner Dudley: That is all.

Mr. Walsh: I have no questions.

(Witness excused.)

Trial Examiner Dudley: We will take a short recess.

(A short recess was taken.)

Mr. Swiren: Mr. Trial Examiner, there was an inquiry made by the Examiner of Mr. Anselm regarding the notice published in the Waukegan News Sun under date of March 10th appearing as Board's Exhibit No. 34, and in view of that fact, in view of the fact that that was handled by Mr. Aitchison I have called him back to take the stand.

ROBERT J. AITCHISON, recalled as a witness for the respondent, being previously duly sworn, testified further as follows:

2601

*Direct Examination.*

Q. (By Mr. Swiren.) That notice was prepared by you, wasn't it?

A. Yes, sir.

Q. And that was distributed to all employees in the plant?

A. Yes.

Q. There was no general mailing?

A. No.



Q. Did you give it to anyone else to make publicity of it?

A. I gave it to the publisher of the Waukegan Sun to use as general information, to use as he liked.

Q. Well, what was the statement as to the pay?

A. Those that were reinstated would be entitled to it by March 12th. We had to break it off at some place. As a matter of fact, it started with the Vascoloy-Ramet group who were prevented from making a day's pay by no act of their own. And the next feature is when the people in the Fansteel Company are also prevented from working by no reason of their own and somebody takes the plant away from them and penalizes them and you have to draw the line some place, or you would have to be paying out for the rest of your natural life.

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) Mr. Aitchison, the entire notice was not printed in the newspaper, was it?

2602 A. No, sir.

Q. The entire notice was distributed to the people in the plant.

A. No.

Q. As far as you know, the entire notice as such was never given out to the people in the plant, is that right?

A. Yes, sir.

Q. Do you know what the rest of the notice said besides what is in the newspaper as given in Board's Exhibit No. 34?

A. Yes. I think it started off by saying that because of the violent seizure of the plant and the removal of the company's control of its own property a number of employees have been unable to earn their wages and do their work through no fault of their own and by reason of that all employees who had been reinstated by March 12th would be paid.

Q. Did it say anything about giving preference to the people who were in or not in the strike?

A. No.

Q. Or who were or were not members of labor unions?

A. No.

Q. Have you made from January 1st, 1937 to the present time any statements in public to the effect that you would or would not recognize an outside labor union at your plant?



Mr. Swiren: Just a minute. I think we had that same problem up this morning and I want to make my objection and make clear my position.

We tried to examine a large number of witnesses from time to time on cross-examination, the Board's witnesses. Each time that either counsel or the Examiner thought that it was not correctly related to the phase under consideration, I was advised I could not ask the questions. We then made an agreement on that and applied the same agreement to our case and I think we should be permitted to proceed in the same orderly way, taking up one phase at a time and finishing it.

Trial Examiner Dudley: Well, while we are on the question of notice I think you can bring it out, Mr. Swiren.

Q. (By Trial Examiner Dudley.) Did you ever make any statements to the public about the policy of the plant or the policy of yourself being for or against the recognition of outside labor unions?

A. After they seized the plant and walked in there and we filed an injunction notice I said I would not talk to anybody. We want our plant back and we are going to get it back. I made that statement while the plant was out of our possession.

Q. You said then you would not talk to anybody?

A. That is right. We want our plant back and the laws enforced and the injunction order carried out. That is not a subject of discussion with anybody.

Q. You said you had talked to employees of the plant.

A. Yes. They had possession of it. Why shouldn't we talk to them.

Q. Yes. But, you would not talk to people who did not work for the plant, regardless of whether they were representatives or pretended to be representatives of your employees or not.

A. During the time the plant was out of our possession I think I made that statement.

Q. After February 26th did you make any more statements?

A. There was no occasion to. We had our plant back and we started to work it.

Q. Did you make any statement to that effect to newspaper reporters?

A. I think I tried my best to get the heat off the place

once I got the plant back. Newspaper releases were stopped the moment we got possession of the plant. Of course, there was a lot of gossip. They buttonholed you on every corner and would ring up every day.

Q. Did the newspapers give considerable local publicity here to your statement that you would not talk with outside representatives?

A. I suppose some, yes.

Q. Frequently?

A. I think a check of the papers will show that they mentioned it all right.

Q. Have you made any speeches to clubs, Kiwanis clubs or Rotary clubs or anything like that regarding this matter?

2605 A. No.

Q. That is all.

Mr. Walsh: May I ask a question, Mr. Examiner?

Trial Examiner Dudley: Certainly, go ahead.

Q. (By Mr. Walsh.) I have a clipping from what appears to be the Waukegan paper in which you are quoted as follows, and I just wondered if you were accurately quoted at the time, and I will read the portion which pertains to this part of the inquiry, quoting from the paper as follows:

"The management will continue its policy of dealing directly with its own employees, either individually or collectively, and will not permit outside professional agitators to inject themselves between us and our employees."

A. What date is that?

Q. Unfortunately, it has no date on it. I was wondering if you were correctly quoted.

Mr. Swiren: We want to renew the objection that was made when the Examiner opened up this phase in the middle of our case. We make the same objection now and an additional objection on the ground that we do not know where the quotation is coming from. Unless he wants to identify that I do not think the witness ought to be called upon to answer.

Trial Examiner Dudley: The objection will be noted. Mr. Aitchison just told me that in general he made statements like this.

2606 A. Well, the plant was out of our possession.

Q. (By Mr. Walsh.) Well, I believe this must be shortly after the return of the property to you.

A. Well, I will say no.

Q. That you are not correctly quoted.

A. No.

Q. I will read the other part of the article. It is headed: "Praise Sheriff for Strike Act.

"Fansteel Company thanks all officials; report material loss of \$25,000.

"President Robert J. Aitchison of the Fansteel Metallurgical Corporation today issued the following statement concerning the ouster of the discharged employees from the company property:

"In conformity with the orders of the Circuit Court of Lake County, Sheriff Lawrence A. Doolittle with 40 deputies today removed 60 discharged employees from plants 3 and 5 which were restored to the company. We are grateful that the sheriff's action was so ably planned and carefully carried out that no serious injury to anyone resulted.

"From a preliminary inspection and survey of plants 3 and 5, we have arrived at the tentative conclusion that:

"(1) There has been no major injury to the machinery itself.

"(2) Materials, parts and supplies of an approximate value of \$25,000 have been destroyed or otherwise rendered useless.

"(3) Physical injury to the buildings themselves, including broken window panes, has resulted in damage of approximately \$7,500.

"It is the definite intention of the company to reopen the plant and resume operations as soon as possible after the necessary rehabilitation can be effected. Building repairs and steps toward replacement of destroyed parts, material and supplies will be undertaken promptly and will be speedily consummated. We are notifying our employees to this effect and will advise them shortly of the date operations will be resumed.

"All of the men who participated in the sit-down strike were discharged by the company. It has been the company's consistent belief that more than half of the 80 men who participated in the seizure of the plants were compelled to do so through coercion and intimidation. Applications for re-employment from such men will receive favorable consideration.

"We cannot condone the defiance of the courts of the re-

sistance with violence to the enforcement of the law. For the men who participated in such unlawful activities, there can be no place in our plant.

"The management will continue its policy of dealing directly with its own employees, either individually or 2608 collectively, and will not permit outside professional agitators to inject themselves between us and our employees."

Was that a statement issued by you after the return of the property?

A. I don't think we issued that, did we, Max?

Mr. Swiren: I think that was a combination of a statement issued after the men came out with a statement issued before they came out. I think we can concede that the statements quoted there were made. I think they were consolidated. That paper comes out in the afternoon and what they frequently do is to consolidate what happens in the morning with what happens the day before and I expect that is a paper that came out on the 26th of February and combined a statement issued on the 25th with the one on the 26th.

Mr. Walsh: No, it would have to be on the 26th or thereafter, Mr. Swiren, because it all relates to the return of the building by the sheriff, don't you see?

Mr. Swiren: Well, that may be, I don't know. The most of it, I know, was a part of our statements.

Mr. Keele: Well, do you want to prove who made those statements?

Mr. Walsh: I just want to know who made it.

Mr. Keele: Well, we will admit it.

Mr. Walsh: All right. I would like to introduce that clipping in evidence.

2609 Mr. Swiren: I think that is a consolidation. In the first place, it is too long to be put into one paper. You do not have news releases that long.

Mr. Walsh: I will offer this in evidence as BOARD'S EXHIBIT NO. 38.

(The document referred to was received in evidence and marked BOARD'S EXHIBIT NO. 38.)

Mr. Swiren: The Examiner asked that we obtain some information with respect to the number of women employees. There is a schedule in evidence showing the total number of employees divided by production and the like, and in the production department the women numbered the following on the following dates:

September 10th, 1936, 45.

September 21st, 1936, 47.

February 17th, 1937, 52.

June 1st, 1937, 86.

That does not include office employees. This is production employees, and just women.

Trial Examiner Dudley: Thank you very much, Mr. Swiren.

(Witness excused.)

WILLIAM E. SCHULZ, called as a witness for the respondent, being first duly sworn, testified as follows:

*Direct Examination.*

Q. (By Mr. Swiren.) Will you state your name?

2610 A. William E. Schulz.

Q. You are an employee of the Fansteel Metallurgical Corporation?

A. Yes, sir.

Q. In what capacity?

A. Secretary to the plant superintendent and also in charge of production.

Q. In pursuance of your duties you keep the employment records of the employees of the company, do you?

A. Yes, sir.

Q. I am showing you photostatic copies of the application cards of the Amalgamated Association of Iron, Steel and Tin Workers of North America admitted in evidence as Board's Exhibits Nos. 18, 19 and 20. Did you examine those?

A. I did.

Q. Did you check those against your present employment records?

A. Yes, sir.

Q. And your former employment records?

A. I did.

Q. I show you Respondent's Exhibit No. 41, and ask you whether you prepared that?

A. I did.

Q. And that shows the persons named in those membership cards who are no longer employed by the company, the  
2611 reason of their not being so employed, and the dates of severance of the employment, is that right?

A. That is right.

Q. And those are accurate?

A. They are.

Mr. Swiren: I offer **RESPONDENT'S EXHIBIT NO. 41** in evidence. Is there any objection, Mr. Walsh?

Mr. Walsh: No, I think not.

Trial Examiner Dudley: It may be received in evidence as **RESPONDENT'S EXHIBIT NO. 41.**

(The document referred to was received in evidence and marked **RESPONDENT'S EXHIBIT NO. 41, WITNESS SCHULZ.**)

Q. (By Mr. Swiren.) Did you compare the cards forming Board's Exhibits Nos. 18, 19 and 20 with the present membership roll?

A. I did.

Q. Are there any of the women or men whose names appear on those cards who are now employed by the company?

A. Yes.

Q. How many?

A. 61.

Q. Now working for the company?

A. Now working for the company.

Mr. Swiren: That is all.

2612

*Cross-Examination.*

Q. (By Mr. Walsh.) Mr. Schulz, would you know the reason why these people listed in Respondent's Exhibit No. 41 were discharged?

A. The reason for it?

Q. Yes. LaVerne Salo I notice was discharged on the 17th of March, 1937.

A. LaVerne Salo is very slow in our operations.

Q. He did not fit into the reorganization, is that it?

A. No.

Mr. Swiren: Just a minute, we object to this, unless this witness had something to do with the discharge and has any authority or any direct information.

Mr. Walsh: Well, I asked him if he knew and he is trying to tell me.

Mr. Swiren: Well, I am talking about having charge of the activity, not hearsay or guessing about it.

Trial Examiner Dudley: Well, he has testified that the reasons for the discharge given here are accurate.



Mr. Swiren: The reasons for being off the list.

Trial Examiner Dudley: They are accurate.

Mr. Swiren: Yes, there is no question about that. If this witness has anything to do with it, though, so he is in position to testify, I have no objection.

Trial Examiner Dudley: I presume he knows that 2613 the list is accurate. You can give what information you have.

A. Well, in efficiency, she was very slow.

Q. (By Mr. Walsh.) She came back after the trouble and worked until the 17th?

A. Yes. She went back on her old job where she was slow. The foreman didn't want to take her back so we put her back to work anyway and told them to give her another chance. She worked about another week and then we transferred her to Mary Atkinson, in the other department, and she was so slow that Mary Atkinson let her out.

Q. I notice that three people here, that is, LaVerne Salo, Victor Oliver, and Russell Pester are people who returned after the plant reopened, but since that they left voluntarily or were discharged. I notice here the third name on the list, Alfred Johnstone; do you know why he was discharged?

A. No.

Mr. Walsh: That is all.

*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) Mr. Schulz, does this list just give the people whose connections were severed before February 17th, 1937?

A. No, some of them were after. Some of them left after and some before. This is a list of employees.

Q. Well, this list does not then give the names of the people who were discharged on February 17th, does it?

2614 A. No.

Q. Well, who does it leave out?

This will be off the record, Mr. Reporter.

(Discussion outside the record.)

Q. (By Mr. Swiren.) You did not try to include in this list the men who were discharged on the evening of the 17th for sitting down in the plant, did you?

A. No.

Q. Did you ever have a complete list of those people compiled in your office?



A. No.

Q. This is independent and in addition to any of those that we discharged for participating in the seizure of the plant on the evening of the 17th, is that right?

A. Yes.

Q. (By Trial Examiner Dudley.) Does this list include the people that were employed as of February 17th and who are not employed now?

A. Employed as of February 17th?

Q. Yes.

A. And are not now employed?

Q. That is right.

A. No, some of these left in November and December.

Q. Well, what I am interested in knowing is your standard in determining whom you should include and whom you  
2615 should exclude as of the groups that were not rehired after the strike?

A. I had these cards to make this list up and I went through all the cards to find out how many of them were discharged, laid off and voluntarily left the company from the time they signed the cards until the present date.

Q. Well, how about the 90 to 100 people that worked for the company on February 17th, 1937 and do not work for the company now that were members of the union, for whom, I suppose, there are cards?

A. That was not made of record. We made no record on that.

Q. Well, do you consider them as having been discharged or laid off or left of their own accord?

A. (No answer.)

Q. They are not employees of the company now, are they?

A. Yes.

Q. I am referring to the people who are not working there.

A. They are employees now.

Q. Well, how did they manage to lose their connections with the company?

A. How did they manage to lose their connections with the company?

Q. Take John Kondrath, for instance. He was employed by the company on February 17th, wasn't he?

A. Yes.

Q. Is there a card for him?

2616 A. Yes.

Q. Why isn't he listed here?

Mr. Block: Do you mind if I interrupt?

Trial Examiner Dudley: No.

Mr. Block: Well now, the question you are asking, I don't think that question should be asked of this witness. As I recall it, that is covered by the stipulation. You have a list of the names and what happened to their employment and when and under what circumstances they left and all that would be disclosed by that stipulation. Now, the question I think you are asking; you want to know what happened to the men who are not now in the employ of the company who were involved in the seizure of the plants, and that is covered by the stipulation.

Trial Examiner Dudley: This is a list of the employees laid off, discharged or who left the company of their own accord. I cannot conceive of any other reason for people leaving the company.

Mr. Swiren: That is other than the people listed in the stipulation.

Trial Examiner Dudley: All right.

Mr. Block: This covers up to June 4th, 1937.

Trial Examiner Dudley: Well, then is it understood this list is complete except for the people named in the stipulation?

2617 A. Yes.

Mr. Swiren: Why don't you add that in pen and ink on the caption and then it will be clear.

Trial Examiner Dudley: This is off the record.

(Discussion outside the record.)

#### *Cross-Examination.*

Q. (By Mr. Walsh.) Mr. Schulz, did you examine the cards to determine how many members of Lodge 66 were not in the company's employ at the present time as the result of the strike or other activities or were not recalled after the company resumed operations?

A. I didn't get the question.

Q. Well, let me state it in this way: maybe that is a little involved, but I think we understand each other. How many members of Lodge 66 listed in those cards are not now working for the company?

A. How many are not now working for the company?

Q. Yes.

A. I believe it was about 104.

Q. 104?

A. Yes.

Q. Now, did that 104 not now working for the company include any persons listed in Respondent's Exhibit 41?

A. No, it didn't include any of them. That is part of the 104.

2618 Q. But that does include these people.

A. Yes.

Q. The 104 includes the persons listed in Respondent's Exhibit 41?

A. Yes.

Q. Now, there were 61 persons named in the cards who are now working for the company.

A. Yes, sir.

Q. And that includes no person listed in Respondent's Exhibit 41?

A. No.

Q. Now, in checking those cards did you find that at some time between September 10th and February 17th all of the persons listed by those cards were employed by the Fansteel Metallurgical Corporation?

A. Between September 10th and February 17th?

Q. That is right.

A. I believe they were.

Q. That is all.

(Witness excused.)

Mr. Swiren: At the outset of the hearings, Mr. Examiner, we offered Respondent's Exhibit 1 and Respondent's Exhibit 2 in evidence in connection with the motion. In order that there may be no question as to their consideration we again offered them in evidence. The Examiner will recall that 2619 those exhibits were the order entered in connection with the contempt proceedings and the decree. We want them received in evidence for the entire purpose of the case and not for the motion only.

Trial Examiner Dudley: Respondent's Exhibits 1 and 2 may be admitted in evidence for general purposes in the entire case.

(The documents referred to were received in evidence and marked RESPONDENT'S EXHIBITS NOS. 1 and 2.)

Mr. Walsh: I objected to them at the original time.

Trial Examiner Dudley: Do you have any more witnesses? (Discussion outside the record.)

Mr. Swiren: If the Examiner please, we are still lacking

the records of Lodge 66 that we asked for in our application for subpoenas and in our renewal. We haven't gotten any subpoenas and so far as I know no records have been produced other than the cards. We still would like to go into that situation.

Trial Examiner Dudley: Mr. Swiren, you will remember you mentioned that on last Saturday or Friday and then again on Monday, and I think it was Monday afternoon that I told you that the stipulation then being discussed would affect considerably what you wanted.

Mr. Swiren: Well, that has nothing to do with this. 2629 That was the question of the sit-down only.

Trial Examiner Dudley: Well, we discussed it on Friday and you wanted everything except that requested in the first paragraph of your stipulation. Now, the stipulation has taken out some of that. Do you remember on Tuesday I asked you to make your motion in writing so I could wire Washington? Will you explain that now?

Mr. Swiren: I will explain it right now. We still want the subpoena duces tecum directed to Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, requiring the production of all its minute books, books of account, check books, membership cards, books and lists and all correspondence relating to the solicitation of members among the employees of the respondent, or relating to the participation of said Lodge 66 or any of its officers, members or agents in the seizure on February 17th, 1937 of buildings 3 and 5 of the respondent's plant and the retention thereof, the maintenance of persons in occupancy of said buildings until February 26th, 1937, and so forth.

Trial Examiner Dudley: Does that refer to paragraph 4 of your original application?

Mr. Swiren: Yes.

Trial Examiner Dudley: The entire paragraph 4.

Mr. Swiren: Yes. I might add that we would still like the subpoena for Robert E. Plankington. I don't know 2621 whether he is available now or not. When the request was made originally I knew he was in Chicago.

Trial Examiner Dudley: Who is he?

Mr. Swiren: He is an arbitrator of the United States Department of Labor.

Trial Examiner Dudley: What was the purpose of it?

Mr. Swiren: To prove violence and threatened violence.

Trial Examiner Dudley: Haven't you got that in the record?

Mr. Swiren: No, that is independent of anything that has been produced in the record. It is additional.

Trial Examiner Dudley: You have a stipulation regarding the retention of the buildings.

Mr. Swiren: Well, these are threats of violence on the lives of persons connected with the company.

Trial Examiner Dudley: What is the relevancy of that to the issues here?

Mr. Swiren: Threats of violence as additional grounds for not taking people back. The company receiving threats on the life of its president is not obliged to hire the people making the threats. At least, that is not the customary practice.

Trial Examiner Dudley: Returning to paragraph 4 of the application, point A of that paragraph has been taken care of now, I suppose, by the submission of cards, hasn't it?

2622 Mr. Swiren: Oh, no, I do not think that has been taken care of by such a showing by a bunch of cards. I don't think that satisfies the proof.

Trial Examiner Dudley: What other evidence do you want?

Mr. Swiren: I want the records. I don't know how many of them dropped out. I don't know how many of them were expelled, or anything about them. I don't know how many were accepted. These were all applications for memberships. I want to know how many were accepted.

Trial Examiner Dudley: On Section B, may I ask your advice with reference to that, in paragraph 4?

Mr. Swiren: Yes. I think if the union financed the situation and directed it, then every member of the union is charged with participation and becomes a party to the violation of the law. If they didn't, then it becomes a question of whether they actually participated or not.

Trial Examiner Dudley: What is the relevancy of that?

Mr. Swiren: Well, I think if anybody participated either directly or through the union engaged in illegal activity, then they come under this point.

Trial Examiner Dudley: Haven't you brought out through the cross-examination of the parties their participation or non-participation?

Mr. Swiren: That is direct participation. That does not apply to members of the union who did not actually  
2623 bring supplies in or actually engage in the sit-down.

If the union financed and directed those activities—this Association which included those people—then even though



they didn't personally participate, they actually became parties to it.

**Trial Examiner Dudley:** What people did you have in mind that you would want to raise that objection to?

**Mr. Swiren:** Well, if that is a fact I think it ought to be shown with respect to all the people named in paragraphs 8 and 11 of the complaint who were not directly connected either by aiding and abetting the sit-down itself or actually participated in the retention of the buildings.

**Trial Examiner Dudley:** Which people are those?

**Mr. Swiren:** Well, I don't remember the names of all of them. It may include the women, it may include Hoff and it may include one or two others.

**Trial Examiner Dudley:** I think on all those people you have got in evidence the facts relating to them, largely through the cross-examination of yourself or Mr. Keele.

**Mr. Swiren:** No, those people did not participate. The women did, maybe. They may have tried to participate, or they may have been brought in by reason of the organization of which they were a part.

**Trial Examiner Dudley:** You are claiming the women were discharged by reason of their inefficiency.

**Mr. Swiren:** Yes. But, we cannot swear to all of 2624 those because we do not know what the record shows.

**Trial Examiner Dudley:** You have sworn that they were inefficient and that that was the reason for not hiring them back.

**Mr. Swiren:** That is right. And if there is any other reason for not reinstating them the Board ought to have that reason available before it reconsiders an order directing their reinstatement.

**Trial Examiner Dudley:** You mean if you had in mind their contribution of funds to the strike, you want to find out whether that is true, to determine whether you did have that in mind on February 26th.

**Mr. Swiren:** No, I think the Board, before it considers any order, should know first whether there was a proper discharge. Secondly, whether the failure to reinstate was for a proper purpose and third, if neither was for a proper purpose, if a person ought to be reinstated for something that has occurred since then the Board ought to enter an order.

**Trial Examiner Dudley:** I will send a wire tonight covering the renewal of your motion, but I wish you would reduce your motion to writing and show why the reasons you are asking for these things are relevant to the issues in the case.

Mr. Keele: Instead of arguing our grounds for the renewal of the motion we will state it in writing.

2625 Trial Examiner Dudley: Yes. Just so we can be definite. I suggested at least as long ago as Tuesday that we would like to have that motion in writing.

Mr. Swiren: Well, there was a question about individuals. There was no question at that time as to records. On the records there have never been any questions about us wanting them.

Trial Examiner Dudley: Is there anything else?

Mr. Swiren: No.

Mr. Walsh: Nothing today, Mr. Examiner.

Trial Examiner Dudley: Then we will stand adjourned until nine-thirty o'clock tomorrow morning.

(Thereupon, at 3:45 o'clock p. m., June 23rd, 1937, an adjournment in the above entitled matter was taken until 9:30 o'clock a. m., Thursday, June 24th, 1937.)

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2629 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIII-C-80) • •

Room 4, United States Post Office,  
Waukegan, Illinois.  
Thursday, June 24, 1937.

The above-entitled matter came on for further hearing, at 9:30 o'clock a. m., pursuant to adjournment.

Before:

Tilford E. Dudley, Trial Examiner.

Appearances:

William R. Walsh, Regional Attorney, on behalf of the National Labor Relations Board.

Levinson, Becker, Peebles & Swiren, Suite 2525, One North La Salle Street, Chicago, Illinois, by

Max Swiren, Harold M. Keele, and Sidney H. Block, Waukegan, Illinois, on behalf of Fansteel Metallurgical Corporation.

Lester Collins, Waukegan, Illinois, on behalf of Lodge 66, Amalgamated Association of Iron, Steel and Tin Workers of North America.

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2630

## PROCEEDINGS.

Trial Examiner Dudley: I will call the hearing to order. You may proceed.

Mr. Keele: May we be off the record for a moment, if the Examiner please?

Trial Examiner Dudley: Off the record.

(Discussion outside the record.)

Trial Examiner Dudley: You may proceed.

Mr. Keele: Mr. Anselm.

A. J. ANSELM, recalled as a witness for the respondent, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Keele.) Mr. Anselm, you have been previously sworn, and have testified several times before in this hearing, have you not?

A. Yes, sir.

Q. Were you present when Mr. Earl Fagan testified in this case?

A. I was.

Q. Concerning a conversation with you—at that time he testified concerning a conversation which he stated was held with you in one of the buildings,—in the cutting room, in building 3, at which time as I recall it he stated that you said to him in substance, “Have you seen this contract?” And he said, “Yes.” And you said, “Read it over.” And 2631 he seated himself on the foreman’s desk, Mr. Chiswell, and looked through the contract, and said to you he thought any court would uphold that contract, or words to that effect; and that you said in substance that you wanted “to break this thing up”; that you suggested that he withdraw from membership in the union; and that he pulled out of his pocket, a membership card in Lodge 66.

Do you recall that testimony?

A. I recall that testimony, yes, sir.

Q. Will you state whether or not—or, will you state what you said to Mr. Fagan, and what he said to you, there at that time?

A. I called him over to the desk, and asked him whether he had seen the contract, and asked him about the closed shop and checkoff provisions of the contract.

He stated that he had not read it, but that he knew what was in the contract. I said, "All right, Earl; I just wanted to make sure that you knew what was in the document."

That was the only conversation.

Q. Was anything said at that time about your "wanting to break this thing up"?

A. Not a word.

Q. Was there anything said about the whole matter being forgotten in two years if he withdrew—

A. No.

2632 Q. —or anything to that effect?

A. No, there was not.

Q. Did he show you at that time a membership card in the union?

A. No, sir, he did not. As a matter of fact I have never seen a union membership card in the Steel Union.

Q. Was there any other conversation that you had with Fagan after that, Mr. Anselm?

A. Not with Fagan, no, sir, except that on February the 27th, I believe it was, he asked me and Mr. Swiren if we could not close the saloons in North Chicago.

Q. (By Mr. Walsh.) What was that date?

A. February 27th.

Mr. Swiren: Just a moment.

The Witness: Oh, pardon me. No. It was February the 17th, or 18th.

Mr. Keele: February 17th?

Mr. Walsh: February 17th, was it not?

The Witness: Yes, February 17th or 18th.

Mr. Walsh: I just did not want you to make a mistake.

Q. (By Mr. Keele.) Did you have any conversation that day with Clarence Dreyer?

A. I did.

Q. And was that conversation had at practically the same time and place?

2633 A. It was within a few minutes after I had talked to Fagan.

Q. And did you talk to Ted Daluga there?

A. I did.

Q. All right. Will you just go ahead and tell us what that conversation was.

\* A. I asked Clarence Dreyer whether he had read the contract over, and he said he had. I asked him about the closed shop and checkoff; and asked him if he knew what it meant. He wasn't sure about that, but he did say, "Al, since you are back around here, it is my idea, and that of some of the rest of the boys in the department, that we don't need a union of any kind, and if we could, we would get out of this, because we know we are going to get a square deal around here from now on."

Q. Who said that?

A. Clarence Dreyer said that to me. Then in the meantime, he called over Ted Daluga, and there was some conversation along those lines.

Q. Do you remember what the conversation with Daluga was?

A. Oh, Ted said that he felt the same way about it; that we didn't need a union around there of any kind.

Q. Did you ask them to get out of the union?

A. No, sir, I certainly did not. I never asked anybody to get out of any union.

Q. Now, was there any conversation there as to how 2634 they could get out of the union?

A. No, sir, there was not.

Q. Now, with reference to the so-called E. R. P., or Employees Representation Plan: Did you circulate yourself, or did you cause to be circulated, any petition with reference to that plan?

A. I did.

Q. What was the nature of that petition—or those petitions?

A. It called for an expression from the employees, if they favored that plan.

Q. As to whether or not they favored the plan?

A. As to whether they favored the plan, yes, sir.

Q. And when were those petitions circulated?

A. About three days after I talked to Fagan and Dreyer, I should say.

Q. You talked with Fagan and Dreyer on September the 10th, I believe.

A. Yes.

Q. Is that correct?

A. Yes, sir.

Q. And how do you arrive at a date of three days later, for circulating the petitions?

A. Well—

Q. I mean, how do you fix that date, as the date  
2635 when the petitions were circulated?

A. Oh, I know it was after that.

Q. Did you show Fagan or Dreyer a petition on that day, with reference to the Employees Representation Plan?

A. No, sir.

Q. When you had that conversation with them?

A. I did not.

Q. Had the petitions at that time been printed?

A. No, sir.

Q. Or typed?

A. They had not been typed, no, sir.

Q. Now, what was the object of those petitions?

A. Why, the object was to get an expression from the employees as to whether such a plan might be wanted in the factory.

Q. Had you discussed the circulating of that petition, or those petitions, with Mr. Aitchison at the time they were circulated?

A. No, sir, I had not. I did that whole thing on my own responsibility.

Q. What was your purpose in doing it?

A. Well, I wanted to see—I wanted to find out what the boys down in the shop were thinking about.

Q. You had been back two days, at the time of your talk with—

2636 A. Two days.

Q. —Dreyer, Daluga and Fagan?

A. Yes, sir, I had been back two days, and I wanted to see what the sentiment was.

Q. And within the next three days, you started circulating those petitions, is that correct?

A. Within two or three days after the 10th.

Q. Yes. All right. Did you ever discuss the matter—or, first, what was the result of the circulation of those petitions?

A. The result was, they came back to my desk with 125 signatures on.

Q. In favor of the Employees Representation Plan?

A. Yes, sir.

Q. What did you then do?

A. I think took them up to Mr. Aitchison, and told him what I had done, and asked him what we ought to do about it, if anything. He turned to me and he said, "We don't

want to do anything about it. Let them do as they please over in the shop."

Q. Yes?

A. (Continuing.) I then walked out of his office, and dropped the petitions in the nearest waste-basket there.

Q. Was there any further action taken with respect to the Employees Representation Plan, or any other plan, or  
2637 any union plan, so far as the company, or the management, was concerned?

A. No, sir, there was not. That was the last that I heard of it.

Q. Did you ever make any statement to Art Holm, Sr., or to anyone else, to the effect that you had been brought back as plant superintendent, to break up the union?

A. I did not.

Q. Were you brought back for that purpose?

A. Why, no.

Q. Was there ever any discussion between you and Mr. Aitchison, or between you and any other official of the company, with respect to your having come back to break up the union?

A. There was not.

Q. Was that ever mentioned?

A. It never was.

Q. What were the reasons that led up to your being brought back as plant superintendent?

A. Why, I had an understanding with Mr. Aitchison, that when the company could afford to put me back on, I would have the job back.

Q. By the way, Mr. Anselm, how long had you been plant superintendent at that plant?

A. Well—

Q. How many years of service prior to September, had you put in there?

2638 A. 14 or 15 years.

Q. That you had been plant superintendent?

A. 14 or 15 years.

Q. Now then, while you were out selling for the company, did you have occasion to look into other plants, and go into other plants, throughout the country?

A. Yes, sir, I have been in a great many plants, but this is one of the best plants in the middle west.

Q. Were you called into any of those plants, in a supervisory or consulting capacity?

A. Yes, sir, I was; I was consulting technical engineer on cutting tools.

Q. Will you state whether or not, when you made those trips to those various plants, you had in mind the improving, or the making of improvements in the Fansteel plant, at the time when you felt you could come back?

A. That matter was running through my mind, yes, sir. Production has been my specialty for all of my life, and when as the result of getting into new plants, I got new ideas, I figured that I could use them, and incorporate them, when I came back.

Q. And you told Mr. Aitchison, on your return from those trips from time to time, did you not, of certain improvements that you would like to see put in there?

A. Yes.

2639 Q. And certain ideas that you had?

A. Yes, sir, I did, and I had a lot more in mind than what our purse would permit the application of.

Q. Did you talk with DuBois on the 10th of September, on the same day you talked with Dreyer, Daluga and Fagan?

A. No, sir. I talked to Frank Moxey. I talked to Moxey because, in point of service, I believe he was one of the oldest men we have, as well as the best in that line.

Q. And what was the conversation that you had with Moxey; what was that about?

A. On the contract.

Q. What was your purpose in talking with Moxey, Daluga, Dreyer and Fagan; or, if you were just talking in a general way, why, tell us.

A. They were old men, and I wanted to get an expression from them.

Q. Why did you want to get an expression from them?

A. Well—

Q. What was your purpose in wanting to get an expression from them?

A. In this particular instance, I wanted to know if they were informed as to what the contract contained.

Q. You are referring now to the contract which was submitted on September 10th; is that correct?

A. Yes, sir.

2640 Q. Do I understand from that, that you had some doubts as to whether or not the rank and file of the men knew what was in the contract?



A. I certainly had a lot of doubt about it at that time, yes, sir.

Q. And it was your endeavor to find out whether or not the men generally knew what was in the contract; is that right?

A. That is exactly what I wanted to find out, yes, sir; and I did not confine my visits, or my conversations to those gentlemen alone.

Q. With whom else did you talk?

A. I talked to Bisbee, Ludlow, Stricklen, and about a dozen more.

Q. Do you recall at this time who any of the others were?

A. Well, let me see. There was Otto Latz; that is all I can recall just a moment.

Q. On the same day?

A. Yes, sir.

Q. In other words, you went from one department to another—

A. I did.

Q. —is that it?

A. Yes, sir.

Q. Now, what did you learn as the result of these conversations that you had?

A. Well, I learned that many men—that many of  
3641 the men did not know that there had been a contract submitted, and also, that they did not know what was in it.

Mr. Keele: That is all.

*Cross-Examination.*

Q. (By Mr. Walsh.) Mr. Anselm, in order that we may get your experience in chronological order in the record, that is, your experience with the Fansteel Company, will you just repeat for us when you first became plant superintendent—or, first, when you first came to work for the company; then when you became plant superintendent; and then when, as I understand it, you went on the road selling for Vascoloy; and then when you returned; just so that we have those dates straight in the record.

A. I became plant superintendent February 1, 1919.

Q. Was that your first connection with the company, Mr. Anselm?



A. That was my first connection with this company, yes, sir.

Q. That is what I mean.

A. Then I continued in that capacity until the spring of 1933.

Mr. Aitchison: June.

The Witness: How?

Mr. Aitchison: June 1933.

The Witness: June 1933.

Mr. Walsh: Yes?

2642 A. (Continuing.) Then I did some selling for Fansteel, for the period of approximately one year.

Mr. Walsh: Was that—

A. (Continuing.) And then I went to Vascoloy for two years.

Mr. Walsh: I see.

A. That brings us up to the fall of 1936, I believe.

Q. (By Mr. Walsh.) Very well. And then you returned to assume your old duties, did you?

A. Yes, sir.

Q. As plant superintendent.

A. Yes, sir, in September of 1936.

Q. Naturally, production having been the major part of your life work, you were interested in that matter particularly when you went from plant to plant, I suppose, were you?

A. Yes, sir, that is true. I had been a production man long before I came to Fansteel.

Q. Now, of course the items which you were selling, were tools to aid production, I believe; were they not?

A. Yes, sir.

Q. In other words you were selling the products of Fansteel and Vascoloy, which were high-speed cutting tools, of extra hard quality?

A. They were carbide cutting tools.

Q. Pardon me?

A. Carbide cutting tools.

2643 Q. Carbide.

A. Tantalum carbide cutting tools.

Q. And your capacity, I presume, was not only that of a salesman, but also that of a technical engineer, in demonstrating the best methods of use of those tools, along the lines of missionary work for further possible sales, I suppose; is that correct?

A. I instructed the shop foremen in their use, and also the operators.

Q. Well, when you came back, you had been away I believe three years; is that right?

A. About that.

Q. That is, you had been away from actual production work in your own plant for a period of approximately three years?

A. About that period.

Q. And you returned on September the 8th.

A. Yes.

Q. You were kind of out of touch, I suppose, with the men in the plant, and what they had been thinking, during your absence; is that correct?

A. As to their thoughts, yes, sir.

Q. Of course, I suppose that the first day you were back, you went around through the plant, and saw all of the old employees, and the new ones as well, did you?

A. Quite naturally, yes, sir.

2644 Q. Yes. You had worked with those men for a great number of years, many of them?

A. Yes, sir.

Q. A great many of the men who testified here had been there a considerable length of time, had they not?

A. Well—

Q. Mr. Moxey had 24 years, I believe, with the company? Earl Fagan, 20 years; Clarence Dreyer, 17 years; and Otto Latz—I have forgotten how many years service he had. But all of those men were the old standby's of the company, were they not?

A. They were old men.

Q. And men upon whom you could rely, at least to tell you what the sentiment of the workmen was; is that correct?

A. They were men—

Q. (Continuing.) I mean, you would have no hesitancy in going and talking to those men, whom you had known for a good many years; that is correct, is it not?

Mr. Swiren: Just a moment. Let us have one question propounded at a time, and not two or three at a time.

Mr. Walsh: Well, I do not care.

Mr. Swiren: Put them one at a time.

Q. (By Mr. Walsh.) The answer is—or rather, the question is that you did not feel any hesitancy in going around and talking to the boys, did you?

2645 A. I don't see why I should have felt any hesitancy about going and talking to the men, or going and talking to anybody.

Q. They had worked for you for a long time?

A. They had worked for the company.

Q. And you had worked with them for a long time?

A. I might have made inquiry about the newest baby, too.

Q. Yes.

A. I was interested in their welfare.

Q. Sure. Now then, on the 10th of September, as I get your story from your testimony here,—on the 10th of September you did not have the petitions then in circulation; is that correct?

A. That is right.

Q. I believe on the 10th of September, the committee from the organization, or from Lodge 66, had submitted to you a proposed contract, had they not?

A. Yes, sir.

Q. And it was concerning the terms, or some of the terms of that contract, notably the checkoff provision, and the closed shop provision, that you wanted to discuss it with these older men; is that correct?

A. Yes, sir.

Q. You felt that those provisions were something that the older men would not be in favor of, and you wanted to  
2646 find out whether or not they were in favor of them; is that right?

A. Why, I did not know. I was a stranger there, as far as what they were thinking was concerned.

Q. Yes.

A. And I wanted to find out.

Q. Yes. So, then, a few days later you caused to be circulated several petitions throughout the plant, and obtained  
125 signatures.

A. The petitions were circulated.

Q. Oh, first, before you answer that, let me ask you another question.

Let me have Board's Exhibit No. 12, Mr. Reporter.

(The exhibit was produced.)

Q. (By Mr. Walsh.) I will hand you what has been marked Board's Exhibit No. 12, in evidence in this proceeding, Mr. Anselm, and I will ask you if that is the contract that they proposed on September 10th that they enter into with the company?

A. It looks like a copy of it.

Q. I think you furnished that to us, or your office did; did you not?

A. I think so.

Q. Now then, some time, you say two or three days, after the 10th of September, which would make it either the 12th or 13th of September, you caused to be circulated certain petitions to obtain an expression from the employees as to whether they wanted an Employees Representation Plan?

A. Yes.

Q. Now, at the time those petitions were circulated, had you caused to be mimeographed and distributed to the men, a proposed plan?

A. (No answer.)

Q. Mr. Anselm, I will hand you Board's Exhibit No. 15, and ask you if you had caused that to be circulated?

A. Yes, I did that, and the reason for that was that I only had two copies in pamphlet form, and the employees were asking for more copies; so I had it mimeographed, and sent out through the shop.

Q. Do you recall about what date that was sent out, Mr. Anselm?

A. Oh, it preceded—

Q. The circulation of the petition?

A. Yes.

Q. When the boys were in there on the 10th, at that time you gave them a copy of the Employees Representation Plan that was in force at the American Steel & Wire Company, did you?

A. I gave them two copies.

Q. All right.

A. They asked for them.

Q. That has been introduced in evidence here as 2648 as Board's Exhibit No. 13.

That is the pamphlet, is it not?

A. Yes, sir.

Q. Now, after you had circulated or caused to be circulated, those petitions, and had sent out those mimeographed copies of the Employees Representation Plan, you then discussed the matter with Mr. Aitchison; is that right?

A. I sent out the copies of the Employees Representation Plan first, and then—

Q. And then circulated the petitions; is that correct?

A. Yes, sir.

Q. And then you discussed the matter with Mr. Aitchison; is that right?

A. That is the correct sequence.

Q. And at that time Mr. Aitchison told you that what the men wanted was their own affair?

A. Yes.

Q. And that you should not interfere in it; is that correct?

A. That is what he said.

Q. And then you ceased your activities along that line; is that correct?

A. I was never very active, and that is all I did.

Q. Well, I mean, after you had done what you said you had been doing; is that correct?

A. Yes, sir.

2649 Q. Now, your conversations with these various men, concerning which you have testified here,—and I will name the ones that have been referred to, whom you were talking to; those are Fagan, Clarence Dreyer, Ted Daluga, Frank Moxey, Stricklen and Otto Latz; those conversations took place on the same day, after the committee from the union had presented this contract; is that correct?

A. They probably all took place on the same day, but some probably the next morning.

Q. Some the next morning?

A. Yes, sir.

Mr. Walsh: That is all.

Mr. Keele: Nothing further.

Trial Examiner Dudley: You are excused.

(Witness excused.)

Mr. Keele: The question now arises, if the Examiner please, with respect to those subpoenas.

Trial Examiner Dudley: I got the subpoenas, as you know, yesterday, at five-thirty. I telegraphed to Washington about the matter—

Mr. Keele: Pardon me; you mean, you got the application.

Trial Examiner Dudley: I should say, I got the application.

Mr. Keele: Yes?

2650 Trial Examiner Dudley: For the subpoenas. I telegraphed Washington, and sent the application in to Washington as soon as I could write a letter, and forward it air mail; but I have not heard anything as yet, and

I would not expect to hear anything until perhaps noon to-day.

Mr. Swiren: Subject to testimony to be adduced by the witnesses and documents asked for in the application, we are ready to rest respondent's case. We do not want to make an offer of proof in connection with those items, if there is any chance of getting the subpoenas, and getting the material; so we would like to close, with the reservation that if we get the subpoenas and can get them served in sufficient time before the conclusion of this hearing, we can bring in the testimony that is called for, from those witnesses and from those documents. Otherwise, that we will have leave at that time to make an offer of proof, which will be considered as though it had been made prior to the close of our case.

Mr. Walsh: There is no objection to that, if the Examiner please.

Mr. Swiren: All right. That is agreeable to the Examiner also, is it?

Trial Examiner Dudley: Yes, that is agreeable. Might I ask if there is any chance of a possible stipulation as to what those people would testify to, if they were brought in?

Mr. Swiren: Well, that may be. We will be glad to discuss it with Mr. Walsh during the day.

2651 Mr. Walsh: I shall be glad to discuss it.

Mr. Swiren: Or after the conclusion of the hearing.

Trial Examiner Dudley: Very well.

Mr. Swiren: There is some evidence with respect to Mr. Pilkington.

Mr. Keele: We know what he said to us, but going beyond that, as to the information on which he based the statement, is something we cannot say.

Mr. Walsh: Well, we can check up.

Mr. Swiren: We can discuss that.

Mr. Walsh: Yes.

Mr. Swiren: And it might be possible to stipulate.

Mr. Keele: Just so that it goes in.

Mr. Walsh: It can go in at any time before we close.

Mr. Swiren: I thought you were going to dictate it to the reporter.

Mr. Keele: I think we had better sit down at noon and prepare it. As I understand it, the Examiner does not care whether it goes in at this time, or whether it goes in before the close of the case.

Trial Examiner Dudley: Oh, no; a stipulation may go in at any time.



Mr. Keele: All right.

Trial Examiner Dudley: Then the respondent rests its case, subject to the privilege of reopening?

2652 Mr. Swiren: As just explained, and requested, yes, sir.

Trial Examiner Dudley: All right.

Mr. Walsh: I have some rebuttal, if the Examiner please.

Trial Examiner Dudley: You may proceed with your rebuttal.

Mr. Walsh: John Kondrath.

JOHN A. KONDRATH, recalled as a witness for the National Labor Relations Board, being previously duly sworn, further testified as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Mr. Kondrath, you have been previously sworn, and testified several times in this proceeding, have you not?

A. Yes, sir.

Q. In going over your previous testimony, I noticed that I omitted to ask you some questions concerning how people became members of your union; and I would like to direct your attention at this time to that phase of the proceeding.

How did you go about securing members for the union?

A. Well, through the applications that we have; those are the only applications that there were; and at the first meeting, there were around about 40 members had signed up.

Q. Yes?

A. That is, there was no officers, or nobody, selected in that meeting there.

2653 Q. I see.

A. And during that meeting, Meyer Adelman had given out some applications for more memberships, and those that received them, they went to houses where people lived, and signed them up.

Q. Now, did the first meeting, at which you say 40 were present, discuss the way they were going about the solicitation of members?

A. How is that again?

Trial Examiner Dudley: The reporter will read the question.

(The question was read.)

Mr. Walsh: I will withdraw that question.

Q. (By Mr. Walsh.) Did you have an Organization Committee?

A. Yes, sir, we did have an Organization Committee.

Q. How many were on that committee?

A. To my knowledge, around about 12.

Q. Now, after an application would be made—let me withdraw that.

I believe you have already identified this as being an application—or a sample application; Board's Exhibit No. 5.

A. Yes, sir.

Q. Except that it was printed on a white card.

A. Yes, sir.

Q. Well, after that was signed, what became of the card?

2654 A. The cards were turned over to Meyer Adelman, to send in to the main office at Chicago.

Q. And did the union have to vote as to whether a person applying for membership, would be accepted into the lodge?

A. Well, it was not necessary to vote on it. According to our information from the organizer, immediately anyone signed these applications, they were members of the association.

Q. I see. As a matter of fact, if you read the first line of the application there, it says, does it not, "I accept"—

A. That is right.

Q. (Continuing.) "—membership in the Amalgamated Association of Iron, Steel and Tin Workers."

A. That is right.

Q. Now, after the man or woman had signed this application, did the union vote—or, no. I will withdraw that.

After the man or woman had signed the application, did the union swear them in?

A. Well, after the meetings where we had temporary offices set up for the benefit of the membership, and for experience about how the lodge should be run later, after they were fully organized, why, there was a ceremony to that effect.

Q. And you administered the obligation of the union, did you?

A. Yes.

Q. To the various members?

A. Yes, sir.

2655 Q. Now, would you do that singly—

A. No.

Q. —or would you do it in groups?

A. It was done in groups.

Q. Usually at every meeting, you had two or three persons coming in; is that right?

A. Yes, sir.

Q. And those were all of the formalities that there were, to people becoming members of the organization; is that right?

A. Yes, sir.

Q. And all of the persons whose cards have been introduced here into evidence, at one time at least had the obligation delivered to them—or rather, administered to them; is that right?

A. To my knowledge, all of them had, except one member, Ludlow. I don't remember him ever coming into a meeting.

Q. I see. Now, prior to September 10th, 1936 did you make any survey to determine how many people working at Fansteel were eligible for membership in your lodge?

A. Through the time cards that were punched at both buildings 3 and 5. All of the employees, including the bosses, punched those particular cards for time, the time when they started, and the time when they left the plant.

Q. Now, how many cards did you find?

Mr. Swiren: Just a moment.

2656 A. Well—

Mr. Swiren: Just a moment. That is objected to, if the Examiner please, taking the two buildings. We do not know how many of them are eligible, and how many are not. There is a way of getting the direct information, and we would have provided any information that counsel for the Board might want.

Mr. Walsh: Oh, by the way; excuse me. This is off the record, Mr. Reporter.

Trial Examiner Dudley: Off the record.

(Discussion outside the record.)

Q. (By Mr. Walsh.) Tell me just what you did, Mr. Kondrath.

Mr. Keele: Just a moment. That is objected to.

Mr. Swiren: The record already has an objection.

Mr. Walsh: Pardon me. There is an objection.

Trial Examiner Dudley: The objection is overruled.

A. What is the question?

Q. (By Mr. Walsh.) Tell me just what you did?

A. What I did was, I counted the cards in the rack, that is, where the clock is; and I found that in both buildings there is 181 cards.

Q. All right. Now, did you make some—or, no; let me withdraw that.

Mr. Kondrath, I will ask you whether or not the bosses punched time cards, too?

A. They did.

2657 Q. And did you make some deductions from that number, for the bosses?

A. Yes. I—

Mr. Swiren: Just a moment. Just answer the question, please.

Mr. Walsh: All right.

Q. (By Mr. Walsh.) Now, what deductions from that number of 181, did you make?

Mr. Swiren: Just a moment. That is objected to unless this witness is in a position to know what the position was of these so-called "bosses" which have been mentioned.

Trial Examiner Dudley: The witness may tell what he knows.

Mr. Swiren: If the Examiner please, I think it ought to be with reference to specific people, and not his own private determination of who ought to be in the list or who ought not to be in the list.

Trial Examiner Dudley: I will ask the witness to be as specific as he can.

The Witness: What is the question?

Mr. Walsh: Read the question, please.

(The question was read.)

A. Well, I made deductions of the bosses, such as Red Hall, Schardt, John Zivic,—that is three—Frank Mack, Jimmy White, Art Holm, Dean Bennett, John Welch, Presler, and Sims.

2658 I don't know just how many of those people that makes.

Q. (By Mr. Walsh.) Now, you made a total of how many deductions?

A. Well—

Q. You have named some. Now, how many was the total that you deducted?

A. Well, from my memory, at that time I figured around

about 20. I don't know just how many I named right now; I didn't count them.

Mr. Swiren: We ask that the answer of the witness be stricken from the record, unless he names who they are. Otherwise we have the private conclusion of the witness as to whom he might include and whom he might not include. I think it is the function of the Board to pass on that, and not the witness.

Trial Examiner Dudley: The objection is overruled.

Q. (By Mr. Walsh.) Mr. Kondrath, was there a list posted any place in the plant that you saw, containing a list of names of those whom you considered to be ineligible for membership in your union?

A. You mean, that were eligible, or not?

Q. No, that were not eligible.

A. Well, as to the bosses—later, when Mr. Luther Henry became shop superintendent, they had posted a notice at the stock room window, to that effect, as to who has a right 2659 to sign requisitions for material out of the stock room.

Q. Yes?

A. (Continuing.) And they were considered as foremen, or bosses, in the plant.

Q. (By Mr. Swiren.) Is that what the notice said?

A. Yes, sir.

Q. The notice said "foremen", did it?

A. Yes.

Mr. Swiren: I am just trying to get the exact language of the notice.

Mr. Walsh: Well—

The Witness: Well, they were foremen, authorized to sign requisitions.

Q. (By Mr. Walsh.) Do you know whether the list said that all of the men authorized to sign requisitions, were foremen?

A. Well, there was quite a few on there. I don't remember exactly the words, but that is what it meant, anyway.

Q. I see. Now, were any of the men on this list, members of your union?

A. No, sir.

Q. (Continuing.) On September 10th?

A. No.

Q. Did you ever consider that they were eligible to belong to your union?

A. No, we didn't.

2660 Q. Now then, from this number of 181 times cards, you deducted how many names, of people whom you felt were not eligible for membership in your union?

A. Well, I deducted about 20 at that time.

Q. So, then, that would leave you at that time 161 persons—

A. Yes.

Q. —who were eligible for membership, eligible to belong to Lodge 66; is that right?

A. Yes, sir.

Mr. Walsh: You may inquire.

*Cross-Examination.*

Q. (By Mr. Swiren.) Mr. Kondrath, were you a member of the committee that solicited members?

A. A member of the committee that solicited members?

Q. Yes.

A. Yes, sir.

Q. You solicited the membership of Louis Bereczky, did you not?

A. Louis Bereczky?

Q. Yes, sir.

A. Well now, I don't remember whether I solicited him, or not.

Q. Do you remember telling him that if he did not join when you asked him to join, it would cost him twice as much to do it later on?

2661 A. No, sir.

Q. You do not remember that?

A. No, sir.

Q. Are you sure you did not say that?

A. No, I didn't.

Q. You never said that to anybody?

A. No, sir, not that I remember of, telling anybody about anything concerning the fees, outside of the one dollar.

Q. Did you ask anybody to join in the plant at all?

A. Yes, probably during noon hours I have.

Q. While you were inside the plant?

A. Yes, sir.

Q. But you never mentioned anything about the union while you were going on with your work during working hours, did you?



A. Well, that would all depend. If somebody happened to come up and ask me something, why—

Q. You would stop and talk to him about it, would you?

A. Well, I wouldn't really stop, no, sir. It wouldn't involve—or rather, it wouldn't interfere with working conditions.

Q. But you would go on and talk about it, would you?

A. Oh, I probably would say just a word or two about it, yes, sir.

Q. Well, tell us the word or two.

A. What?

2662 Q. Tell us just what you would say.

A. Well, that would depend on what it was; depending on what somebody asked me.

Q. Well, just go ahead and tell us what they would ask you, and what you said.

A. Well—

Q. (Continuing.) Tell us who asked you the questions, and what you said to them.

A. Well, I don't remember right now who particularly asked me particular questions.

Q. There were a number of them, were there not?

A. Well—

Q. A number of men?

A. Well, there was some.

Q. About how many?

A. I don't remember.

Q. About how many?

A. I couldn't remember how many.

Q. Were there eight?

A. Well—

Q. As many as eight?

A. Well, it might have been eight, or it might have been more or less. I don't know.

Q. It might have been 12, too, is that right?

A. I wouldn't say.

2663 Q. Well, can you tell us one of those men, the name of one of those men?

A. I don't know.

Q. What?

A. I don't remember right now who it was asked me.

Q. You cannot remember a single one?

A. Well, I can remember members, yes, sir, but I don't remember just what they said.

Q. Can you remember a single man, or the name of a single man, whom you spoke to in the plant about the union during working hours?

A. Oh, I might have talked to them, but I don't remember.

Q. The fact of the matter is, Mr. Kondrath, you did so much talking about it, that you cannot remember now to whom you did talk; is that not right?

Mr. Walsh: I object.

A. Oh, I don't think I did so much talking.

Mr. Walsh: Just a moment. That is objected to as not proper cross examination, if the Examiner please.

Mr. Swiren: This is on the question of how he solicited members. I am trying to find out about that.

Trial Examiner Dudley: It appears to be a conclusion of counsel, rather than a statement of the witness, but I will let it stand.

Mr. Swiren: What is that?

2664 Trial Examiner Dudley: I say, it appears to be a conclusion of counsel, rather than something from the witness, but I will let it stand.

Mr. Swiren: It is a most natural conclusion.

Q. (By Mr. Swiren.) You cannot tell us the name of any man to whom you talked, you cannot remember that now, and you cannot remember what any man said to you, or what you said to him in the plant; is that correct?

A. Well, offhand I can't, unless you can make some statement there, as to what somebody said, or something like that.

Q. I was not there, was I, Mr. Kondrath?

A. No.

Q. And you were there?

A. I was.

Q. But you do not remember any of it?

A. Well, not offhand I don't.

Q. All right. Now, referring to that notice about requisitions for supplies, or signing requisitions: Jay Bisbee's name was in that notice also, was it not?

A. I don't remember.

Q. How?

A. He probably was.

Q. All right. And you asked Bisbee to join the union, did you not?

A. So I did.

2665 Q. Yes.

A. (Continuing.) I don't know whether I asked him before that or not, though; I don't remember.

Q. And the notice said that the following people therein named would have the right to requisition supplies; is that not right?

A. Yes, sir.

Q. It did not say anything about what authority they had, or whether they were foremen, or whether they were straw bosses, or anything else, did it?

A. (No answer.)

Q. That is right, is it not?

A. Well, I don't remember just what it did say, word to word.

Q. Well, you will not swear, will you, Mr. Kondrath, that it said, "The following men are foremen"?

A. I believe it was—I believe it said that they were authorized to sign requisitions.

Q. Yes, for supplies.

A. For supplies.

Q. All right. Now, you did not consult with any of the officials of the company as to how many employees were working in production at the time you checked these time cards, did you?

A. No, I didn't.

Q. By the way, when was it you said you checked those time cards?

2666 A. Well, it might have been the last part of August, or the first part of September, or somewhere along in there.

Q. And you do not know whether all of the—I will withdraw that; strike it out. Let me get this exhibit.

You did not check the payroll records of the Fansteel Company, did you?

A. No.

Q. And you did not ask at any time as to how many employees there were in production, did you?

A. Well, this was merely guesswork. I figured off of the time cards, that they were working men, and I figured that the laboratory doesn't punch out there, and neither does the office, but only the working men and bosses punch out on those two particular clocks.

Q. There were some men who worked in the laboratory, who worked right in production, were there not?

A. Well then, they punched on this particular clock.

Q. Well, they are not hourly rated employees, are they?

A. The ones that help out in the laboratory, such as Ed Chapman and his helper, they punch out on this clock, yes, sir.

Q. I see. Did everybody who worked in the laboratory, punch out on that clock?

A. I imagine they do in their own building.

Q. Oh.

A. They have one in there.

2667 Q. Then there may have been some men who were working on production, who punched on that clock, so far as you know?

A. That I don't know.

Q. Now, you mentioned a little while ago the fact that members who signed applications, were sworn in from time to time as members of the union. Is that right?

A. Yes, sir; they were, in groups.

Q. Yes, but not singly.

A. They could have been a member, without swearing.

Q. Well, do your by-laws say that?

A. We have no by-laws yet.

Q. Have you any minutes of your meetings?

A. I believe we have.

Q. Do you know whether any of the minutes say that?

A. Well, I couldn't say as to that. I don't remember all of the minutes that is in the book.

Q. You know that the constitution of the Amalgamated Association of Iron, Steel and Tin Workers of North America, provides for the swearing in of members before they become members, do you not?

A. Yes, they do.

Q. Yes. And did you keep track personally of the men who were sworn in?

A. No, I didn't.

Q. So that when you say that you think that all of  
2668 the men who signed cards were sworn in, you are just guessing, are you not?

A. Well, yes. I couldn't say that they all were. There might have been one or two that were missed.

Q. Might there have been 10 or 15 who were missed?

A. The only one I know of particularly was Ludlow, because I had never seen him in a meeting.

Q. You attended all of the meetings, did you?

A. Well, I might have missed one.

Q. Well, he was not sworn in at that meeting, was he?

A. Which meeting?

Q. The meeting you missed.

A. I don't remember.

Q. You mean, you do not know what happened there?

A. No.

Q. But nevertheless, your guess is that they were all sworn in, except one or two?

A. Well, that is just about right.

Q. And you are sure that it could not have been 20 or 30, who were not sworn in?

A. Well, I wouldn't say so.

Q. You would not say?

A. No, sir.

Q. Well, how many members can you remember, who were sworn in?

2669 A. Well—

Q. Just go ahead and tell us the names of those whom you do remember as being sworn in?

A. Well, I couldn't tell you all of the names. In fact I don't know everybody's name.

Q. I know you do not know everybody's name, Mr. Kondrath, but tell us some whom you remember seeing sworn in?

A. Well—

Q. Just do the best you can.

A. (No answer.)

Q. Oh, it should not be so hard to answer that question, if you saw so many sworn in. Just go ahead and tell us as many as you can.

A. Well, when you see a whole lot of people before you, you do not remember them all in rotation.

Q. Well, if you cannot remember them, you could not check them off against any membership list, could you?

A. Well, maybe I could do that, if I go over the list.

Q. Well, tell us as many as you can remember now. Let us just start with the first meeting at which any were sworn in. Who was sworn in at the first meeting?

2670 A. Well, now, let me see. At the first meeting—well, I couldn't say how exact I could be. Some probably was at other meetings sworn in, too. I can't recollect the faces that I seen at different meetings.

Q. That is the best answer that you can give to that question, is it?

A. That is about all.

Q. All right.

A. Because the secretary would know more about it than I would.

Q. You are testifying about it, and you are testifying under oath, and I want to ask you these questions. If your secretary testifies about it, we will ask him.

A. O. K.

Q. Now, tell us who was sworn in at the second meeting?

A. Well, I couldn't pick out the groups in my own mind right now. This thing happened quite a long time ago, and all kinds of excitement has happened since.

Q. You cannot name us any of those people, then?

A. Well, I could probably name, at the first meeting, Fred Hensley, Ed Ruck, Dugan, Joe Petraitis, Angelo Galbavy, Roy Brown, and Bond—

Q. Who?

A. Bond, I believe; John Germer, Swanson; and some I don't remember.

2671 Q. Yes, do not forget him.

A. Well, that is about all I can remember.

Q. Well—

A. I can't place them in groups.

Mr. Walsh: Pardon me—

Q. (By Mr. Swiren.) How many do you remember at the second meeting—

Mr. Walsh: If the Examiner please, if I may interject myself at this point, I would like to inquire to what end this cross-examination is addressed? Will counsel state?

Mr. Swiren: This cross-examination is addressed to the direct examination of this witness. It is perfectly proper cross-examination, when this witness bulks the members so conveniently for counsel for the Board. We have been trying to get the records of this organization ever since this hearing was started, and for a week before, but instead of that, all we get is statements from memory by witnesses. I therefore think—

Mr. Walsh: I do not think I touched on that matter in the direct examination of the witness. I do not think I asked him anything about the number of members in the Lodge.

Mr. Swiren: Well, the record is perfectly clear, and will speak for itself.

Mr. Walsh: I simply asked him about the persons working at the Fansteel Company, who would be eligible to  
2672 membership in the Lodge.



Mr. Swiren: It was the questions and answers with respect to the men who were sworn in that brought forth this cross-examination.

Trial Examiner Dudley: Of course, it is understandable that the witness would not remember who was sworn in at one meeting, and who was sworn in at another, although he may at the same time know that all of the people were sworn in.

Mr. Swiren: With the permission of the Examiner—

Trial Examiner Dudley: But if counsel wants to go ahead further along that line, I will permit him to do so. His memory has been pretty good.

Mr. Swiren: Yes, I do want to go ahead, and see how good his memory is, and how accurate his statements are.

Trial Examiner Dudley: You may proceed.

Mr. Swiren: And I would also like to remind the Examiner, as we have pointed out a number of times, that the question of credibility is a question for the Board, and not for counsel or the witness.

Trial Examiner Dudley: I have ruled that you may proceed.

Mr. Swiren: Will you answer the question?

The Witness: What is the question?

Mr. Swiren: Read it.

(The question was read.)

2673 At the second meeting, I don't remember, but there was quite a few of them there.

Q. Do you know how many were sworn in at the second meeting?

A. How many?

Q. Yes, sir.

A. Oh, I judge around ten.

Q. Around ten?

A. Yes.

Q. Can you name any of those ten?

A. No, no.

Q. Well, all right. If you cannot name them, let us try something else. Did you keep a list of all of the members, and check them off as they were sworn in?

A. The secretary did, I guess.

Q. You did not do that?

A. No, sir. All that I done was to preside over the meetings. I didn't keep no record of anything.

Q. Did you watch to see whether the secretary was keeping track properly or not?

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A. Why, yes.

Q. Or did you just rely on him?

A. I think he done a pretty good job, as far as he was concerned.

Q. You did not check up on him, to see that he was doing it properly, did you?

2674 A. No, I didn't.

Q. Who kept the books in which the oaths of those who were sworn—or, from which the oaths of those who were sworn in by groups, were checked off?

A. I don't know that there is anything mentioned, towards the swearing of members in. We merely kept the membership record.

Q. Who kept that?

A. Carl Swanson kept the membership record, as far as dues was concerned; and Ed Ruck was corresponding secretary. He wrote up the minutes.

Q. They both had lists of members, then, did they?

A. Why, I don't know if they both had a list of members or not. One had the corresponding—or, rather, the minute book; and the other one had the members, the membership.

Mr. Swiren: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: That is all; thank you.  
(Witness excused.)

Mr. Walsh: Recall Mr. Swanson.

CARL ANDREW SWANSON, previously sworn, was recalled as a witness for the National Labor Relations Board, and testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Mr. Swanson, you have previously been sworn, and have testified several times in this cause, have you not?

A. Yes, sir.

Q. I will hand you a group of cards which have been for convenience listed here as Board's Exhibit No. 19, and I will ask you if you have examined that group of cards?

A. Yes, sir.

Q. No one of those cards bears a date, upon which the application for membership in the union was made; is that right?

A. Yes. There are some additional cards here, that don't belong in here, I believe.

Q. Are there a good many?

A. There are some.

Q. Now, have you checked those cards against your records; that is, the records that you keep as the financial secretary of Lodge No. 66?

A. Yes, sir.

Q. And have you determined the date upon which the persons who are named in those cards, became members of Lodge 66?

A. Approximately, yes.

Q. Approximately.

A. Yes, sir.

Q. When you say "the approximate date", Mr. Swanson, do you mean the month in which they became members?

A. With reference to some of them, the month, and 2676 some of them even to the day of the month.

Q. I see. All right. Now, I will go over this list with you, and you tell me the dates that you find the persons named became members of Lodge 66.

A. All right, sir—

Mr. Swiren: Just a moment. ~~That is~~ objected to, if the Examiner please. The records ought to be brought in. It seems to me there has been a consistent effort here to avoid letting the Board see what is in those records, but instead we are getting these statements second hand, third hand and fourth hand, in the way of guesses, estimates and approximations.

Trial Examiner Dudley: The witness may answer, if he knows.

Mr. Swiren: I would like to request the Examiner to ask the witness, whether those records are present in the hearing room here, available for examination and inspection?

Mr. Walsh: That is objected to, if the Examiner please. I ask that I be allowed to continue my examination.

Trial Examiner Dudley: Let counsel proceed with his direct examination.

Q. (By Mr. Walsh.) H. Bond.

A. Yes, sir.

Q. When did he become a member of Lodge 66?

A. July, 1936.

2677 Q. Mabel Carlseen.

A. August 21, 1936.

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- Q. Pardon me, I did not ask about A. J. Bunton.  
A. July, 1936.  
Q. Clarence Drayer.  
A. July, 1936.  
Q. Alma Herman.  
A. November, 1936.  
Q. Elsie Herman.  
A. November, 1936.  
Q. Lydia Jorski.  
A. November, 1936.  
Q. Eric Lindberg.  
A. February, 1937.  
Q. William B. Magness.  
A. July, 1936.  
Q. Mary Worklund.  
A. Morklund?  
Q. Well, I am not sure. I believe that is a "W".  
A. Well, maybe it is. I don't know. It looks like an "M"  
to me.  
Q. What was that date?  
A. That was November, 1936.  
Q. David Nostell.  
A. November, 1936.  
2678 Q. Theodore Ohlson.  
A. August, 1936.  
Q. Victor Oliver.  
A. February, 1937.  
Q. Joseph Petraitis.  
A. July, 1936.  
Q. Orvo Romppaine.  
A. August, 1936.  
Q. Merritt Pratt.  
A. August, 1936.  
Q. LaVerne Salo.  
A. January, 1937.  
Q. Orlin Swanson.  
A. February, 1937.

Mr. Walsh: If the Examiner please, at this point I would like to state that I have written the dates, as testified to by the witness, on Board's Exhibit No. 19, which I now offer in evidence.

Mr. Swiren: To which we object, and we also move that all of the testimony of the witness be stricken from the record. We can understand relaxing the rules of evidence,

where it may be difficult to ascertain or develop the evidence as required by the ordinary rules of evidence; but there is no showing of that here; the evidence is in the possession of this witness; and the best evidence ought to be brought before the Board, and second, third and fourth hand information ought to be rejected.

Trial Examiner Dudley: The objection is overruled, and Board's Exhibit 19 is admitted in evidence.

(The document referred to was received in evidence and marked BOARD'S EXHIBIT NO. 19, Witness Swanson.)

Q. (By Mr. Walsh.) Mr. Swanson, in your first testimony concerning the members of Lodge No. 66, on various dates in September and in February,—that is, in September of 1936 and in February of 1937,—you were not at that time in possession of the records, or they were not available to you; that is correct, is it?

A. That is correct.

Q. I will ask you now whether you have had any opportunity to inspect your records, and determine how many members you had on September 10th—

A. Yes.

Q. —1936?

A. September 10th, 1936, yes, sir.

Q. How many members were there of Lodge 66—

Mr. Swiren: That is objected to.

Trial Examiner Dudley: Just a moment.

Q. (By Mr. Walsh, continuing.)—on September 10th, 1936.

Mr. Swiren: That is objected to. We ought to have those records in this hearing room, if the Examiner please. It seems to me that they have had enough time to do anything they wanted with those records, since we first asked for subpoenas, but still we do not get those records, but, instead, just a guess.

Mr. Walsh: If the Examiner please, I resent the continued inference that the government is attempting to fix its case. Those suggestions are continually coming from counsel on the other side, and unless the government obtains and receives from counsel for respondent, the respect to which it is entitled, I am very much afraid that we will have some serious differences of opinion here.

Mr. Keele: Let me say this, that heretofore most lawyers have had respect for their government; but when the time comes that a governmental agency will permit testi-

mony to be adduced out of the memory of a man, based upon records which are available, and which are under the control of that man, and for which the other party to the litigation has asked, and asked repeatedly, and for which they have applied for the proper process designated by the government, to obtain such information; and when, repeatedly, flimsy evidence of the kind that has been adduced here, which is based entirely on memory, or hearsay, is adduced, and is permitted to go in, at a hearing before a governmental tribunal, when such cards or records are not compelled to be produced, when the other party to the litigation is com-

2681 pelled by subpoenas to produce all of its records pertinent to the inquiry, and many records not pertinent to the inquiry; or, in other words, when it becomes very evident that the matter is a one-sided matter, and that there is partiality, whether it be in the person of the Examiner, or the person of the attorney for the Board, or the Board itself, or at least when it appears that the governmental agency which has control of the machinery for enforcing the production of such records, has taken the position that it is not necessary to do so in one case, but it is in the other; then I say perhaps there is some basis for a doubt in the minds of sincere and honest people, who have made an effort to support their government, and to support the law, as to the impartiality and fairness of the government.

If that be contempt, make the most of it! I think then the time has come when we no longer have a government, for which we need show respect.

Now, we have attempted to conduct ourselves here, under stress and strain in a proper manner, and in a judicial manner, but I do not think the position can be stated too strongly that we contend for, and that is, that when the rights of the respondent, which are as important supposedly as the rights of the men who are named in the complaint, are concerned, and are in the balance, I think that when that time comes, it is only fair that the respondent should have the same rights as the men, and that we should not have to  
2682 depend upon the memory of a man who is an interested party to this proceeding, based upon records which are available, without the production of those records in the case.

I think that is manifestly unfair, and it is hard indeed for people, particularly impartial people, to see wherein it is fair; and there is some doubt in the minds, not only of the lawyers here, but of the parties litigant, or at least one of



the parties litigant, through its officers, stockholders and directors, who have followed this case, as to the fairness of the government in this situation, as manifested by the National Labor Relations Board. Therefore we do keep renewing this request.

We do not want to be contentious or captious about it, but I think it is a matter of the first importance. This whole case depends, so far as the government is concerned, upon establishing the proposition as to whether or not Lodge 66 had a majority of the employes of the Fansteel Company; and without the establishment of that proposition, this whole case falls. I do not think there can be any question about that.

Now, then, that being the most important single—issue in this case, it seems to me we ought to have every opportunity to inquire into that with the utmost fullness, freeness and fairness, and the repeated failure of the government, if

not refusal, to compel these records to be produced, cannot but militate adversely against us. That is why we

keep renewing this request. And I submit that we are not contemptuous in our attitude, but that, rather, we are outraged, and I think most properly so. We are stunned! Certainly, it is a most strange procedure, one with which not one of the lawyers who are representing the respondent here, have had any previous experience, and we are astounded that that sort of thing can go forward before what purports to be an impartial agency of the government; I say that as a former government prosecutor. We were never permitted to take such liberties.

Now, I must submit that until those records are produced, the attorney for the Board ought not to be permitted to go forward probing into the memory of a man who bases his memory upon cards and records which are not produced.

Trial Examiner Dudley: I merely call the attention of counsel to the fact that there is nothing the Trial Examiner can do with reference to getting subpoenas. He has no right to issue subpoenas.

Mr. Keele: I do not make that charge.

Trial Examiner Dudley: The Trial Examiner reported your application as soon as he could, by telegram and by air mail, and there was nothing else that could be done.

Mr. Swiren: I think the Examiner should have done that at the opening of the case, or when this witness first testi-

fied with reference to the number of members, and we renewed our application. I do not think the Examiner acted promptly at all.

Mr. Keele: I might say—

Trial Examiner Dudley: In that connection, Mr. Swiren, I might point out to you that you stated last Friday that you were going to renew your application, and at that time you were very vague as to what you wanted to renew your application for.

Since that time, on Monday or Tuesday, there was considerable discussion about a stipulation, as a result of which a stipulation was entered into, which did do away with the necessity of obtaining the subpoenas which you wanted, in many cases, as you now recognize.

I also wish to call your attention to the fact that I asked you, and I asked Mr. Banker to ask you, to make a motion in writing, beginning on about Tuesday or Wednesday of this week; and that I did not get your motion in writing until last night at 5:30, when it was sent promptly to Washington.

Mr. Swiren: I want to say this, in view of the remarks of the Examiner, that last Friday we renewed our application in writing, a copy of which is in the possession of the Examiner, and there was nothing vague or uncertain about it.

The Examiner first talked to me at the time of the stipulation, and I said that we might be able to eliminate some of the men, but that did not solve the problem of the records, and that is the point of controversy here now. It is not about the men; it is about the records.

As soon as I learned of the Examiner's request for an application in writing, which was yesterday, I prepared it, notwithstanding the fact that the rules require no such thing, but on the contrary provide that all applications and all motions to the Trial Examiner shall be oral.

Trial Examiner Dudley: Well—

Mr. Swiren (Continuing:): We have made application at least half a dozen times during this hearing. This is not something new.

Trial Examiner Dudley: I am sorry, but I cannot enter into any controversy with counsel.

Mr. Swiren: Well, the record will speak for itself, and I will stand on the record.

Trial Examiner Dudley: The witness may answer the question.

The Witness: What is the question?

Mr. Walsh: Will you read the question to the witness again, Mr. Reporter?

(The question was read.)

A. Either 90 or 91.

Mr. Swiren: What is the answer?

Mr. Walsh: "Either 90 or 91."

2686 Q. (By Mr. Walsh.) Now, Mr. Swanson, have you examined your records, and can you testify as to how many members there were on September 21, 1936?

Mr. Swiren: The same objection.

Trial Examiner Dudley: Overruled.

A. Approximately the same number.

Q. (By Mr. Walsh.) And that number was 90 or 91? Is that right?

A. Yes, sir.

Q. Now, have you examined your records, and can you tell me how many members you had on February 17, 1937?

Mr. Swiren: Have you finished the question?

Mr. Walsh: Yes,—read the question back, please, Mr. Reporter.

(The question was read.)

Mr. Swiren: The same objection.

Trial Examiner Dudley: Overruled.

A. Yes.

Q. (By Mr. Walsh.) How many members did you have on February 17, 1937?

A. I believe the records that I have, show 154.

Q. 154?

A. According to my records, yes, sir.

Mr. Walsh: You may inquire.

Mr. Swiren: Where is Exhibit 41; does anybody know?

2687 Mr. Walsh: Which exhibit?

Mr. Swiren: Respondent's 41.

Mr. Walsh: Here is a copy.

*Cross-Examination.*

Q. (By Mr. Block.) Mr. Swanson, when did you become secretary of the organization in question?

A. Well, I couldn't tell the exact date. I wasn't present at the meeting when I was elected to the office.

Q. Well, approximately?

A. Well—

Q. Tell us about when.

A. It was either in the latter part of July or the first part of August.

Q. 1936?

A. Yes, sir.

Q. At that time who was president?

A. That was the time when all of the officers were elected, I believe.

Q. Well, who—

A. President Kondrath,—

Q. Well, now, just in order to shorten it up, John Kondrath was president at that time, wasn't he?

A. Yes.

Q. And you were secretary?

A. I was.

2688 Q. Recording secretary?

A. Well, later on—

Q. Were you recording secretary or financial secretary or what?

A. Well, the officers at that time hadn't been interpreted properly, in electing them.

Q. Well—

A. (Continuing.) And later on they elected a treasurer. At first, I was financial secretary and treasurer both, I believe.

Q. All right.

A. But those duties were divided later on, and then I had the job of financial secretary.

Q. That still would be some time in August—about the middle of July or August, 1936?

A. Yes, when I was elected.

Q. Now, getting back to my question: John Kondrath was president during that period of time, was he not?

A. Well—

Q. Or acting president?

A. Kondrath was elected president at the same time I was elected.

Q. Well, who else did you have as officers, or who were acting in the capacity of officers of this organization at the same time that you are now speaking of; that is, in August?

A. Ed Ruck.

2689 Q. Ed Ruck?

A. Yes.

Q. He was what?

A. Recording secretary.

Q. All right. Did you have any other officers?

A. Well, there was, I believe, some guards, some inside and outside guards.

Q. I see.

A. And trustees, certain trustees.

Q. Yes.

A. Then there was a treasurer elected later, and I told you a minute ago, but just when he was elected, I couldn't say.

Q. All right.

A. And a vice president.

Q. All right. You had other officers, then.

A. Yes, sir.

Q. And you have named all that you can remember now, have you?

A. How?

Q. You named Ed Ruck.

A. Well, when they were all elected, I just couldn't say—

Q. No, no.

A. There were some elected after—

Q. Now, Mr. Swanson, just a moment; I am talking about the names of the officers.

2690 A. Oh.

Q. Who were those officers?

A. Well, there was Ed Ruck.

Q. All right.

A. Clarence Dreyer, I believe, was vice president at that time. He was elected and then later on he resigned. I believe Frank Zelenick was a trustee, and Raymond Du Bois and William Van Treeck, and Fred Hensley, I believe was one. Just when they were elected, though, I couldn't say.

Q. Well, that is all right. You have given us all that you can remember offhand, is that right?

A. Yes.

Q. Without referring to the records?

A. Yes.

Q. Do you know when you joined the organization, yourself?

A. When I joined?

Q. Yes, sir.

A. In July.

Q. July.

A. Yes, sir.

Q. Who solicited you to join the organization?

A. Why—

Q. To become a member of the organization.

A. I believe it was—I believe the first man I talked to about it was—well, I don't remember now who it was.  
2691 I talked to somebody down at the plant, from the Contact Department, I believe it was; that is, they were talking about the union they wanted, and I was solicited, you might say, by President Kondrath, but that was later on in July.

Q. And then you went ahead and solicited some members also, I suppose, you yourself, did you?

A. I think so.

Q. After that?

A. Why, I believe I did.

Q. Yes. Now, is that your card before you there, your so-called application card?

A. Yes, sir.

Q. May I see it?

A. Certainly.

Q. When you were testifying here a few moments ago, you had these documents in your hand, did you not?

A. Yes, sir.

Q. And were you referring to them, for any portion of your testimony?

A. I have a record card of my own, that has the date of initiation on it, or the month—

Q. Well, no, Mr. Swanson—

A. I just had those—

Q. What I am getting at is this: When you were testifying here, in answer to some of the questions that were  
2692 put to you by Mr. Walsh, you gave some dates.

A. Yes.

Q. Now, in giving that testimony, were you referring to any documents or records of any kind in the batch that was before you at that time; or were you giving these answers from memory?

A. I don't remember about the dates. What dates are you referring to now?

Q. Well, I will put it this way: What documents, memorandums or papers, if any, did you refer to, in answering Mr. Walsh's questions on your direct examination?

A. Well, in July, 1936—

Q. No, no, not in July, 1936, Mr. Swanson; I mean, today.

A. Well—

Q. What records—



A. Now, when I refer to a date, when I speak of July, 1936—

Q. All right. Go ahead.

A. (Continuing.) When I referred to that, I was referring to my card, that is the ledger card that I have to keep my record on, to show that I had a record of a man, to compare with the white card.

Q. All right.

A. That application card.

Q. All right. What were you referring to, then?

A. The month, or the—

2693 Q. No, no, Mr. Swanson. My question is what records, papers or memoranda did you refer to when Mr. Walsh was asking you questions, in answering those particular questions?

A. My ledger cards.

Q. I do not want these long speeches. I just want you to answer my question.

A. My ledger cards.

Q. And by "ledger cards", do you mean these cards that I now have in my hand?

A. Those pink ones.

Q. The pink ones?

A. Yes, sir.

Q. That are in between the white cards here?

A. Yes, sir.

Q. That is right, is it?

A. Yes, sir.

Q. All right. Now, when you became a member of this organization, Mr. Swanson, Mr. Kondrath talked to you about it, I suppose, down at Fansteel a few times before you came in?

A. No, sir—I never talked to Kondrath at all about it, before it was formed.

Q. Well—

A. (Continuing.) I didn't even know that he was interested in it at that time.

Q. Well, he mentioned it to you outside, did he?

2694 A. Out side, yes, sir.

Q. Then when he got through convincing you that you should be a member, you signed a card; is that right?

A. He didn't convince me.

Q. Well, anyway, when you decided to become a member; put it that way.

A. Yes.

Q. And after you talked to Kondrath and several others, you signed a card?

A. Yes, sir.

Q. You signed one of these cards?

A. Yes, sir.

Q. That is right, is it?

A. I don't remember just when I signed the card—

Q. I did not ask you if you remembered when you signed it.

A. —whether it was that date or not.

Q. Mr. Swanson, if you will just listen to my questions, and answer them, I think we can shorten this up materially. It will not take us nearly so long.

A. O. K.

Q. When you decided to join, you signed one of these cards; that is right, is it not?

A. No, I don't believe I did sign that card at first.

Q. Well, did you sign a similar card?

A. I couldn't tell you the exact card that I did sign 2695 at that time, now.

Q. What kind of a card did you sign, did you say?

A. Well, I have got the stub at home; I would have to get that stub, to show you.

Q. You have those cards at home, have you?

A. Well, for each individual that signed one of those application cards, there was a stub on the end of it, and when he signed, this stub was detached, and handed to him for his receipt.

Q. All right. But getting back to your own case now, Mr. Swanson, you signed, as I understand your statement, some card that you do not have here now, but that you have at home; is that right?

A. No, no.

Q. Well, how was it, then?

A. Well, the stub was given to me—I signed the other card, and the stub that I got was supposed to be signed by the organizer, and that was supposed to be my receipt.

Q. Who has the stub to this card?

A. The card was turned in to the Steel Workers Organizing Committee, and my stub is at home.

Q. All right. And is that also true of the other membership cards, that you have some record in connection with other people, as to when they joined, or what they signed at the time, and you have those records at home?

2696 A. No, not that part; not the stub, no. I don't have the stubs or the cards. The application cards were all turned in to the Steel Workers Organizing Committee.

Q. Now, each of these members, I suppose, as they joined paid something to join, did they not?

A. Well, I couldn't swear to that either.

Q. All right. In other words, do you mean that it is not true, it is not a fact, that all of them paid something; but that some may have paid, and some did not pay anything to join the organization? Is that it?

A. Well, there was certain months in there, I believe, when we had exemptions.

Q. Well, now, there are records in existence in connection with that, are there not?

A. I believe there is.

Q. Yes. And those records will show who paid, and when they paid, and whether or not they paid, at the time their application was taken up; that is correct, is it not?

A. (No answer.)

Q. Is that right?

A. No, sir.

Q. What is that? There are such records that will show that, are there not?

A. I believe that there is, yes, sir.

2697 Q. There are records which will show a complete list of the membership of your lodge, as you claim it existed on February 17th, 1937, are there not?

A. In February?

Q. Yes.

A. Well, not—well, pretty close, yes.

Q. Pretty close?

A. Yes.

Q. All right. Where are those records?

A. The cards.

Q. That is the only record you have, it is?

A. Well, no, I have other—that is, I have other means to compute records, to compare with those cards.

Q. I see. Then you have other records, have you?

A. Well, they are not what you would call a certain form of record.

Q. Well—

A. (Continuing.) They are just a method that we use, between the office of the Steel Workers Organizing Committee and myself and the members.

Q. But you have such records?

A. Yes.

Q. That is, regardless of the type of records that they are—

A. Yes.

Q. (Continuing)—or whether they are of voluminous character or otherwise, you have certain records?

2698 A. I have rough records, yes, sir.

Q. And during the entire hearing you have been here in Waukegan, have you not?

A. Well—

Q. That is, I mean you have been in the city of Waukegan; you have not been out of town during this hearing, have you?

A. No, I don't believe I have.

Q. You have not left here at any time, but you have stayed right here?

A. I think so.

Q. And the other officers of Lodge No. 66 have been right here also, is that not right—and by "right here," I mean in the city of Waukegan?

A. No, sir, they haven't. Some of them have been back to Fansteel. They haven't all been right here.

Q. I see. Well, they would still have been in Waukegan, would they not, because that is—

A. Well, that is North Chicago.

Q. North Chicago, yes.

A. Yes.

Q. That adjoins Waukegan immediately on the south, does it not?

A. Yes, sir.

Q. But you and the president of the organization, Mr. Kondrath, have attended the hearings here constantly, and  
2699 have testified on many occasions, or at least on several occasions, have you not?

A. Yes, sir.

Q. All right. And all of those records were under your control or the control of Mr. Kondrath, or of some of the other officers, and are under that control; that is right, is it not?

A. Yes, sir.

Q. Now, it is a fact, is it not, that the—Oh, pardon me. I will withdraw that.

By the way, after these members joined your organization, did you vote on them in the lodge?

A. No.

Q. You did not?

A. No.

Q. Did you swear them in, in some way?

A. We have asked at different meetings any member that had not taken the obligation, to come forth and take the obligation.

Q. So that there were some sworn in, you think, were there?

A. Oh, yes, I would say that there was quite a few sworn in.

Q. Quite a few.

A. Yes.

Q. But there were some who were not?

A. Well, I couldn't testify to that.

2700 Q. Well, is it possible that some were not? As Mr. Kondrath said, he remembered one.

A. Well, anything is possible—

Q. All right.

A. —if you don't have an actual record of it.

Q. Did you keep a record?

A. No, sir.

Q. Of those who were sworn in?

A. No, sir.

Q. Well, now, let us get back again—

A. The only record that was kept—

Q. Go ahead.

A. (Continuing.) —was at the meetings; they were asked, and they would be recorded in the minutes of the meeting; they were asked to come forth and take the obligation.

Q. All right. Now, let us start in at the beginning. When you solicited memberships, you got some kind of a card from them, did you not?

A. Got some kind of card from them?

Q. Yes; if a man decided to join—

A. We would hand them a card, if we solicited them.

Q. You would hand them a card.

A. Yes.

Q. And get a signature.

A. Yes, sir.

2701 Q. Now, some of those are not dated; is that correct?

A. A few.

Q. A good many are not dated, are they?

A. I wouldn't say a good many.

Q. Well, are there some?

A. Some, yes.

Q. All right. Let us take the case, for instance, of—let us take the top one that you have here; Mabel Carlseen.

Mr. Swiren: Carlseen.

The Witness: Yes.

Q. (By Mr. Block.) This is one of the cards.

A. Yes.

Q. Numbered 118—I guess it is. Now, that card is not dated, is it?

A. No, sir.

Q. Was there anything collected from this woman at the time that she signed this card?

A. I couldn't say that.

Q. Very well. Was she voted on by your lodge, on the question of whether or not she would be received as a member?

A. I don't believe she was.

Q. Did she attend the meeting?

A. Yes, I believe she did attend the meeting.

Q. Was she sworn in?

A. I wasn't present at that particular meeting, I  
2702 don't believe.

Q. All right. If you do not know, Carl, just say that you do not know. We want to shorten it up if we can.

A. I just wanted to explain to you that I wasn't at the meeting.

Q. All right. You were not at the meeting.

A. No.

Q. So you do not know.

A. I wasn't there.

Q. Very well. And is that also true of any of the other cards which are not dated, that you do not know exactly whether they paid anything or not, or whether they were sworn in, whether they attended the meeting?

A. Well, you would have to go back and find out when there was exemptions for new members coming in, and check it all over.

Q. All right.

A. There was certain months—

Q. Go ahead.

A. (Continuing)—up until November, I think it was, when anybody that signed a card paid one dollar for initiation fee.

Q. Yes. All right.

A. I think that was up until November 1st.



Q. Well, how would you go about to determine when  
2703 Mabel Carlseen, the lady we have been talking about,  
joined the organization?

A. There was four cards given to me—or, rather, there  
was four names given to me.

Q. By whom?

A. By some member of the lodge.

Q. Where?

A. I believe at that meeting when I wasn't there—

Q. I say, where was it; on the street?

A. No, sir, it wasn't on the street; it was down in the of-  
fice of the Steel Workers Organization Committee.

Q. When was it?

A. Well, now, I couldn't tell you the exact date, when that  
was given to me. It was a long time ago.

Q. How did they give you the names?

A. Well, a record was given to me on new members com-  
ing in.

Q. How did they give it to you; did they just hand you  
a memorandum?

A. Yes, they gave me the names.

Q. All right. And that was somebody whose name you  
do not remember; is that right?

A. Not at the present time.

Q. And you do not know when it was?

A. Oh, I know when she signed the card, yes.

Q. 'No. I say, you do not know when it was that  
2704 this report was made to you?

A. No, I couldn't give you the exact date when it was,  
now, no.

Q. No. And so you are arriving at the date, in the case  
of Mabel Carlseen, by what somebody told you; is that right?

A. Well, if you will check back, I will give you the names  
of the four girls, and you have—or I have—or, rather, I be-  
lieve you have the cards there. Those cards run in rotation,  
you understand.

A. Yes.

A. It was on the 21st of August; and those four names  
were given me at the same time.

Q. I see.

A. And I was told by other members that those girls were  
present at the meeting.

Q. I see.

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A. And signed the cards.

Q. That is how you came to this conclusion—

A. Yes.

Q. —that is right, is it?

A. Yes, sir.

Q. And you kept no list of membership,—other than those cards, did you?

A. At that time the cards were not put out—

Q. No, I am not speaking about the cards, now. Did  
2705 you keep any record, or any list of membership—

A. Yes.

Q. The members—

A. Yes.

Q. —who composed your organization?

A. I did.

Q. You did.

A. Yes, sir.

Q. Where is that record?

A. Well, that was just a cheap composition book, and it has been used for a scratch pad, and everything else.

Q. Well, some great masterpieces have been written in cheap books, on ordinary paper, Mr. Swanson. Now, where is that book? That is what I want to know.

A. That book is in my possession, what is left of it.

Q. How far do you live from this building, where this hearing is now being conducted?

A. Oh, not so very far.

Q. Well, I mean just roughly, for the sake of the record; a mile, two miles, three miles, or what?

A. Oh, about a mile and a half I would say.

Q. All right. And when you testified here today you did not have that book before you, did you?

A. No.

Q. That is right, is it not?

2706 A. No, I didn't.

Q. Now, you were asked by Mr. Walsh on your direct examination as to the date when certain members joined your organization.

A. Yes.

Q. You responded that in the case of H. Bond, for instance, he joined in July, 1936.

A. Yes, sir.

Q. Where did you get that information from, or where did you get that information?

A. By one of the small dues cards that I had.

Q. I see.

A. And also by checking up a list that showed some of the first members to sign up.

Q. Where is that list?

A. Why, that is in my possession, I believe.

Q. It is not here?

A. No, sir.

Q. You have never brought it here?

A. No, sir.

Q. All right. In other words, Howard Bond—or Henry Bond—is that his first name?

A. I believe it is Howard.

Q. The card of Howard Bond, as you believe it to be, is not dated?

2707 No.

Q. He was not voted on?

A. There was no members voted on.

Q. No members were voted on?

A. No.

Q. All right. Now, let us see. You have said that there were no members voted on, and there were some from whom one dollar was collected, and there were others who paid no dues; is that right so far?

A. Well, as I said before, there was certain periods of exemption.

Q. Well, I say, whatever the reason was, there were certain members that did not pay dues—

A. Yes.

Q. —during certain periods; now, is that right?

A. Yes, sir.

Q. Some of them never paid any at all?

A. I wouldn't say that, no.

Q. Showing you this card of Elsie Herman, I will ask you to state whether she paid any dues?

A. I couldn't say whether she paid any initiation fee or not.

Q. What does that card show as to whether or not she did? It is your card. You said you took the information—

A. I said, the dues card.

2708 Q. Well, what does that show? Did she pay any dues?

A. Whether she paid any initiation fee or not, I couldn't tell you.

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Q. I am asking you about dues, now.

A. I explained to you that there was an exemption—

Q. Yes.

A. —a period of exemption in there.

Q. All right.

A. When there was no dues.

Q. I am not asking you now about any exemptions, Mr. Swanson. The point I am trying to find out about it, did she pay any; not why she did not?

A. Whether she paid any initiation fee or not, I don't know.

Q. No. Did she pay any dues?

A. No, sir.

Q. All right. Now, how about Eric Lindberg; did he pay any initiation fee, first?

A. I couldn't tell you that, whether he did or not.

Q. Did he pay many dues?

A. No, sir.

Q. How about the next one—well, let me read them off to you. This is No. 2976. I will give you the numbers.

A. Lydia Jorski; no, she never paid any dues either. If there is nothing marked down below in these spaces 2709 here, there is no dues paid. That may save you some time.

Q. I understand that, but you have not identified these yet, and we want to get them into the record, if we can.

A. Oh, surely.

Q. Now, how about No. 2858, W. Magness? That man paid something, did he not?

A. Yes, sir, he paid up until October—he paid for August, September and October.

Q. Did he pay any initiation fee?

A. He apparently did.

Q. All right.

A. Because for those months they had to pay an initiation fee.

Q. All right. Now, card Number 2936: Will you read the name on that, please?

A. Mary Morklund; no dues paid. I couldn't say whether she paid any initiation fee or not.

Q. Card number 2952. Just read the name on that card, and give us the same information, please?

A. David Nostell. He paid one dollar in November for

dues. Whether he paid any initiation fee or not I couldn't tell you.

Q. In November?

A. Yes, sir.

Q. 1936?

A. He paid one dollar dues in December.

2710 Q. December. did you say?

A. Yes, sir.

Q. 1936?

A. Yes, sir.

Q. All right. Number 3060.

A. Orlin Swanson. In February he was initiated—or signed up. I don't know whether he paid any dues or initiation fee or not.

Q. Does that record there, the card, show that he paid any dues?

A. No, sir, no dues.

Q. It does not?

A. No, sir.

Q. All right, take the next one, J. Petratis, number—what is the number of that card?

A. 2863.

Q. All right.

A. He came in in July, so he paid an initiation fee. He paid for August, September, October and November, and February; that is August, September, October and November, 1936, and February of 1937.

Q. How about Victor Oliver, 2991?

A. In February—no, there was no dues paid. I don't know about the initiation fee.

2711 Q. By the way, does that card show on what date Oliver joined your organization?

A. No, sir. It just shows that he had joined during the month of February.

Q. But you are counting him in, of course, in the list of your membership, are you not?

A. Oh, surely.

Q. Now, here is card No. 2949. This is the one you talked about before, is it not?

A. Alma Herman. She paid no dues. She came in in November, during the period of exemption. That is 2949.

Q. How, about 2996?

A. LaVerne Salo; in January; initiated, and no dues paid.

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Q. 28571

A. That is Murray Pratt. He paid one dollar for September.

Q. Now—

A. Do you want the rest of these?

Q. Well, you may read them in, if you want to. Some of them paid; I have given you some who did.

A. O. K.

Q. You can read those in if you want to, Mr. Swanson. I have no objection. I only want to know about those that did not pay.

A. All right.

2712 Q. And you can read the others in, if you want to do so.

A. Go ahead.

Q. Now, what would you say, Mr. Swanson, as to whether or not there are a large number of members who never paid any dues?

A. Well, that is only a very small percentage of the cards there.

Q. Well, there would be more—if you produced more cards, there would be others; it would appear that others had not paid anything, would it not?

A. Oh, I wouldn't say that, no.

Q. Well, have you got those cards?

A. Not here.

Q. Not here.

A. No.

Q. But you have got them available?

A. Oh, yes.

Q. That is right, is it?

A. Oh, yes.

Q. Then, I suppose from time to time the situation in your membership has changed; that is, some people have left the employ of the company?

A. Well, there wasn't many, I don't believe.

Q. Well,—

A. I believe there was one.

2713 Q. I do not care if there was one or one hundred, I say, that did take place, did it not, that there would be a change by reason of the fact that some employe either was discharged, or voluntarily left the employ of the Fansteel Company? That is true, is it not?



A. Well, it was more just the new help coming in, I believe.

Q. Well, all right. I am talking about your members. Some of them left, but I am not asking why they left.

A. Well—

Q. (Continuing.) At any rate, they severed their connection with the firm, did they not?

A. To the best of my knowledge, there was two members that left,—that is, one member died—

Q. I am not asking as to the number now, Mr. Swanson. I am asking you whether there were such cases.

A. Two, I believe.

Q. All right. What did you do with them, in your records?

A. Notice was sent in to headquarters.

Q. I see.

A. At Pittsburgh.

Q. But they are included in your list of membership, are they not?

A. Up until September 10th.

Q. September 10th?

2714 A. Yes, sir, and if they were not employed at the time of February 17th, why, I didn't specify them.

Q. You did not specify them?

A. No.

Q. Well, where did you do all that,—I mean, your specifying or failure to specify? Where did you do that?

A. Well, in my testimony here, just like now

Q. Oh, I see. You are just doing that from memory, you mean?

A. No; I counted the cards.

Q. And you have consulted your other records to determine that?

A. Yes, sir.

Q. That is right, is it?

A. Yes, sir.

Q. Was Charles Ambrose a member of your organization at any time?

A. I believe he was.

Q. Do you know whether he was or not?

A. I believe he signed an application card, showing the indication that he wished to be a member.

Q. All right. But as you said here now, Mr. Swanson, you cannot say definitely that he was or was not, can you?

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A. Well, just from memory, I would say that he was a member, yes, sir.

2715 Q. Well, but I mean, you were just expressing some doubt about it, were you not?

A. Yes.

Q. In your answer?

A. I couldn't say offhand.

Q. You cannot say offhand?

A. No.

Q. But you could readily determine that if you consulted your records, could you not?

A. Yes, sir.

Q. Yes. And you could tell when he joined, and when his connection with your organization ceased, could you not?

A. Well, that is a kind of hard question to answer.

Q. Well, I will split it up. Maybe I made it a little too complicated. I will split it up.

A. All right.

Q. If you had your records, you could tell when he joined your organization, could you not?

A. If I had records I could tell when he joined the organization, yes, sir.

Q. And if you had your records, you could tell how long he remained a member, could you not?

A. No, I couldn't do that so easily right now.

Q. Well, now, you could tell—if he left the employ of the company, you could tell that, could you not? By reason of the fact that he was no longer employed at Fansteel, he would no longer be a member of your organization, would that not be true?

A. Yes, sir.

Q. Well, you could tell that from your records, could you not?

A. I believe I could.

Q. You believe you could.

A. Yes, sir.

Q. And that would be true as to the date when that occurred, would it not?

A. No. Sometimes I was notified of a man not working, or something like that,—or quitting; and it might be that the exact date was not given.

Q. I see. All right. Frank Lodesky; when did he join the organization?

A. July.

Q. July what; 1936?

A. Yes, sir.

Q. What do your records show in connection with Frank Lodesky?

A. Well, I had his card marked at the time, "Ceased", and since that time he hasn't worked any, and I sent his card away, so he is off, in my record, as far as these cards are concerned. However, I still have his original application card.

Q. What record is he off of, then.

A. He is out of the application cards; these here dues cards, membership cards.

Q. I see.

A. And he should be off of the records of the S. W. O. C. You see they send out buttons and then send out membership cards to the members in good standing; so he should be taken off of that record also.

Q. Well, those are some more records, are they not that you are referring to now? Those are some more records?

A. Yes.

Q. Who has those records?

A. That I don't know. I believe that they are in charge of Mr. McDonald. I don't know, though; I wouldn't say for sure.

Q. Who is he?

A. He is treasurer of the organization, that is, the Amalgamated Association—or whatever it is—with headquarters in Pittsburgh.

Q. All right. What have you got on Russell Pester?

A. Russell Pester?

Q. Yes.

A. I couldn't tell you right now about him.

Q. How about Victor Oliver? What have you on him?

2718 A. Well, Victor Oliver, the last I heard, he was going to California, I believe. He was working back at Fansteel, and then he was going to leave for California.

Q. When did he join your organization?

A. Oh, I believe that was in February, but I wouldn't be sure, exactly.

Q. In the month of February, 1937?

A. I think so.

Q. When—

A. I wouldn't say for sure, now.

Q. When in February?

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A. I couldn't tell you just offhand now.

Q. What have you on Fred Mesec?

A. Fred Mesec joined in July of 1936, and he is waiting to be called back to work, I believe,—or was at the time.

Q. When did you say he joined?

A. July, I believe.

Q. You believe.

A. Yes, sir.

Q. Do you know when he was laid off?

A. I believe he was laid off in the last part of July, or August; I wouldn't say for sure, now.

Q. Of 1936?

A. Yes, sir.

Q. Now—

2719 The Witness: Say, your Honor, could I have the reporter read back Mr. Block's last question to me?

Trial Examiner Dudley: The last question?

The Witness: Yes.

Trial Examiner Dudley: Certainly. Read it, please, Mr. Reporter.

(The question was read.)

A. Well, now, I don't believe—I understood he was laid off. That is, as far as being laid off was concerned, there was just no work at the time, and he was to be called back later.

Q. (By Mr. Block.) Now, Mr. Swanson, I want to ask you again; the answers which you have given to the questions here concerning your membership, or concerning the membership in your lodge, are based on what you have told me here today; that is, partially on records which you have got at home; partially on some computations which you made, and partially on the card which you have before you here.

Now, is that correct?

A. Well, the basis of my testimony is upon these membership cards, and these cards here; that is the basis of my testimony here.

Q. Now, did you have a book for your minutes as recording—or, what were you; financial secretary?

A. Yes, sir.

2720 Q. Did you have anything to do with keeping the minutes of the proceedings—

A. No.

Q. —which took place in the lodge?

A. No, sir.

Q. Who did?

A. Ed. Ruck.

Q. Ed. Ruck.

A. Yes, sir.

Q. Who is occupying that position at the present time?

A. Why, I don't believe that there is anybody. That is, Ed. Ruck is still recording secretary, but due to the condition of things, I don't believe there is anybody acting in that capacity right at the present time, because we haven't had any meetings lately.

Q. Did Ed. Ruck turn those records over to you?

A. No, I don't think he did.

Q. Who has those records?

A. Why, I have those records right now.

Q. Well, did you not get them from Ed. Ruck?

A. No, sir.

Q. You got them from somebody else?

A. Yes, sir.

Q. But you have those records?

A. Yes, sir.

2721 Q. And those records show who was sworn in—

A. No.

Q. —as members?

A. No, sir.

Q. They do not?

A. No, sir. They don't show—what do you mean when you say "Sworn in"? Do you mean the officers?

Q. No, no; the members.

A. Oh, no. That doesn't show.

Q. It does not show that?

A. Oh, no.

Q. Do those records show who was selected from time to time to be members of your organization?

A. No.

Q. Or who were accepted as members of your organization?

A. No, sir.

Q. Well, am I mistaken about this? I thought that Mr. Kondrath said that the secretary kept a record of that, of the members who were sworn in, in groups, in the different meetings. Mr. Swiren asked him about the first meeting, and he said at the first meeting there was a large number, and he named some of them, and that at the second meeting there were some more.

A. Yes.

Q. And he named them. Then, he was asked, "Well, 2722 was there a record kept of that?"

A. Well—

Q. And he said—

A. I think he said, he thought there was.

Q. Now?

A. Didn't he say that he thought there was.

Q. I do not know. What is your own notion about it?

A. That is what I thought he said.

Q. Is there a record of that?

A. There are records of the meeting, but not of the actual dates of each individual who was sworn in.

Q. All right. Now, there is just one other question that I want to ask you, Mr. Swanson, and that is this; have you any by-laws?

A. I believe that was explained here—

Q. No, no. Just answer my question, please. Do you have any by-laws?

A. Well—

Q. Has your organization, Lodge 66, any by-laws?

A. (No answer.)

Q. That is a simple question to answer, is it not, Mr. Swanson? Has your Lodge 66 any by-laws?

A. Well, now, I will have to call on my counsel, to answer that question.

Q. Well—

2723 A. I can't answer that question.

Q. You have been the secretary, have you not?

A. Oh, yes—financial secretary.

Q. And you have belonged to the lodge for a long time?

A. Since July, 1936.

Q. And yet you do not know whether Lodge 66 has a set of by-laws or not?

A. I can't answer that question.

Q. All right. Very well. Now, have you any rules or regulations concerning the qualifications of members?

A. The accepted rules, yes.

Q. What are they?

A. Well—

Q. And where are those rules?

A. Why, I don't know whether it states it on the membership card, or not.

Q. Oh, no; I know that; I have already asked you about



that. I am not talking now about the cards, but other than the cards.

A. Well, you will have to have that explained to you by counsel.

Q. All right.

A. I couldn't explain it to you in full detail.

Q. That is your best answer, is it?

A. Yes, sir, it is. It is really too complicated for me to try to answer.

2724 Q. Have you a constitution?

A. How?

Q. Have you a constitution?

A. We are operating under a permit, I believe, from the Amalgamated Association.

Q. I see.

A. Through the Steel Workers Organizing Committee.

Q. All right.

A. So in that way we have, but we are not using it to the fullest extent. As I said, we are just operating under a permit.

Q. Has Lodge 66 a constitution of any kind?

A. As I have just told you, we are operating with a permit, and using their constitution to a certain extent.

Q. Yes. Have you since the organization of the local, adopted any set of rules, by-laws, a constitution, or any other regulations which govern the body in its meetings, or in soliciting memberships or in any of its activities?

A. Not by the lodge itself.

Q. All right.

A. We have not.

Q. Very well. Then, when you solicit a member, that is not governed by any rule, is it?

A. Yes.

Q. By what rule?

2725 A. Well, by the rule that is set down through the Steel Workers Organizing Committee.

Q. Where is that rule?

A. Well, I couldn't tell you where it is.

Q. You cannot say?

A. No.

Q. Then, when you accept a member into your lodge, you keep no record of it, except this membership card, that is right, is it not?

A. Well, they have this membership card here, and then

the card—the application card that goes into headquarters; and they make a record of it there; and it is supposed to be returned back, as I understand it.

Q. That is still the card, is it not?

A. Yes, sir.

Q. Then, that is all you have?

A. Yes.

Q. That card?

A. Yes.

Q. Except for some private records that you have yourself?

A. Well—

Q. That is right, is it not?

A. Well, there is—well—

Q. Well, the record shows. Now, who determines the eligibility of members?

2726 A. The members themselves.

Q. The members themselves?

A. Yes, sir.

Q. Who determined who properly—who determined what members properly belonged to the organization on February the 17th, 1937?

A. Well—

Q. Who determined that?

A. Why, any organizer or member that signed up another member, he determined that by accepting their signature on the card.

Q. I see.

A. As being eligible and qualified.

Q. And, of course, that is not limited to one man.

A. To the members.

Q. I say, that is not limited—

A. Oh, no.

Q. —to one organizer?

A. No.

Q. Or one member?

A. No.

Q. In other words, one member can go around and sign up another member?

A. Yes, sir.

Q. Or any organizer could go around and sign up  
2727 any number of members?

A. That are eligible.

Q. Yes.

A. That is right.

Q. And he determines himself whether that man whom he is signing up, is eligible?

A. He has a certain rule, and then he determines himself whether that man comes under that rule.

Q. All right. Now, about that rule: do you have a copy of it?

A. No, sir.

Q. Have you ever seen a copy of it?

A. Well, I couldn't recall just now whether I have or not.

Q. Do you know whether there is one?

A. I couldn't say whether there is or not.

Q. In the dispute now,—I think I have already asked you this question, and if I have, you will pardon me for repeating it, but just to make sure, it is true that practically every member from time to time was in the habit of going out and soliciting other members?

A. Well, I wouldn't say that.

Q. Well, no, not every member, but, say, a good many of them? That is true, is it not?

A. Well, they would ask their friends, and relatives 2728 and so forth.

Q. And they were governed by the rule you have referred to, as they may have understood it?

A. Yes, sir.

Q. That is right, is it?

A. Yes, sir.

Q. And they were not guided by any written rule at all, of any kind, were they?

A. Well, I wouldn't say whether it was a written rule or not.

Q. In any of the records which you have at home here, or elsewhere any place at all, is there a written rule which defines the eligibility of the members of Lodge 66?

A. I wouldn't say that, no. There might be. We have got records—like I told you before, we are just working under a permit, and we had no permanent records, books, or anything else.

Q. Not at that time, but I mean, today?

A. There are records now that might show that.

Q. There are records now that might show that, you say?

A. Yes, sir. I haven't gone through them.

Q. What would they be?

A. Well—

Q. What would those records be?

A. That I couldn't tell you, because, as I say, I  
2729 haven't gone through them.

Q. Where are they?

A. They are out at 1416 Lloyd Avenue, Waukegan, Illi-  
nois.

Q. I see. All right. And what are the records where  
we would find such information, or which would contain  
such information?

A. As to the conditions that a man would be eligible to  
membership under—

Q. No, no, your rule, by which the eligibility of members  
is determined, or where the eligibility of members is defined.

A. Pardon me, Mr. Block, but did you ask me a question?

Q. I thought I did.

A. Well, I am sorry. I didn't get it.

Trial Examiner Dudley: Read the question, please.

(The question was read.)

A. I couldn't say for sure whether it is in there or not,  
but I said, it might be in there. I have got certain books that  
explain the rules, and setups of different things, but whether  
it is in there or not, I couldn't say offhand.

Q. Who made up those rules?

A. I couldn't say.

Q. Whose rules are they? Who are the people who made  
up those rules?

A. I couldn't tell you that.

2730 Q. You cannot tell us that?

A. No, sir.

Q. Are they printed?

A. I believe that they are in pamphlet form.

Q. In pamphlet form.

A. Yes, sir.

Q. Well, what are they called? Do they have any desig-  
nation of any kind?

A. Oh, yes.

Q. What?

A. Well, there is a heading to it, but I couldn't tell you  
offhand what the heading is, now.

Q. Well, what does it say?

A. I couldn't tell you now.

Q. What do the rules provide?

A. I told you, I haven't gone through them.

Q. I see.

A. I am very sorry.

Q. All right. That is very fine. And they are not here?

A. No.

Q. And you cannot tell us what they say?

A. No, sir. I haven't gone through them. I tell you, it is all new stuff, and I haven't gone through it.

Q. Do you have any rules as to when a member of your organization ceases to be a member?

2731 A. Why—

Q. (Continuing.) That is, under what conditions he may terminate his connections with your organization?

A. Well, not a general rule, that is, in writing, or set up by the organization, no, sir. We understood as individuals that there were certain limitations, and so forth.

Q. The individuals made that up as they went along, did they?

A. Well, it was a general understanding of the organization that we wanted.

Q. So that a man under that arrangement might remain a member of your organization so long as you men between yourselves agreed that his situation—was the same; is that about it?

A. If his situation was the same?

Q. Yes.

A. If it didn't change.

Q. In other words, if you men decided that way, he was still a member?

A. If it was proven that a situation had not changed.

Q. Proven to whom?

A. To the membership.

Q. To the membership?

A. Yes, sir.

Q. Yes, but you have stated that you were not going  
2732 by any written rule—

A. No.

Q. Or any definition at all?

A. We were just under a temporary setup.

Q. Yes.

A. And that had not been decided.

Q. So regardless of a man's wishes and without consulting him, that was the situation, was it?

A. Oh, I wouldn't say that.

Q. You would not say that?

A. No, sir. He would be given a fair opportunity.

Q. All right. Now, Mr. Swanson, that is what we want to know. Now, there is just one other question:

Will you give us a list of your membership today? Who are your members today?

A. Well—

Q. You have told us about the members, and when they joined in 1936. Now, who are your members today.

Mr. Walsh: That is objected to, if the Examiner please, as not being a matter that is relevant to the inquiry here.

Mr. Block: Oh, this goes to the very crux of the question that is involved here, Mr. Examiner. They are claiming a majority.

Trial Examiner Dudley: Let this be off the record 2733 a moment, Mr. Reporter.

(Discussion outside the record.)

Mr. Swiren: There is also this matter to consider, if the Examiner please, that if the Board decides adversely to us, it will have to decide what the order is going to be.

Trial Examiner Dudley: Read the question, please, Mr. Reporter.

(The question was read.)

Mr. Block: If the witness does not know, why, of course, he may just say so.

A. Well, to my knowledge, our members today are still members; that is, any man who has signed one of these cards and who has been accepted, is still a member.

Q. (By Mr. Block.) I see. And that is the way—

A. To my knowledge.

Q. —that you are governed, and the way you have governed your membership ever since your lodge was organized? That is, you determined—

A. This is the basis. (Indicating cards.)

Q. That is the basis.

A. Yes, sir.

Q. And that basis, so that there will be no argument about it, Mr. Swanson—just let me have them again, please.

A. Yes, sir.

Q. That basis is this group of cards which have been 2734 referred to as application cards—

Mr. Swiren: Board's exhibit No. 19.

Q. (By Mr. Block.) Continuing) —Board's exhibit No. 19.

Mr. Walsh: 18.



Mr. Swiren: No, 19.

Mr. Block: Well, if you gentlemen will get together, I will finish the question.

Mr. Swiren: It is exhibit 19, is it not?

Mr. Walsh: The whole group consists of Board's exhibits Nos. 18, 19 and 20.

Mr. Block: 18, 19 and 20?

Mr. Walsh: Yes.

Q. (By Mr. Block.) (Continuing) That is what you are governed by entirely; is that correct?

A. That is the basis of proving our membership, yes, sir.

Q. And on February the 17th, 1937, you followed the same rule, in making that determination, did you?

A. That was the accepted rule, yes, sir.

Q. The accepted rule.

A. Right.

Q. But not in writing?

A. How?

Q. Not in writing?

A. Well—

Q. There was no written rule?

2735 A. How?

Q. There was no written rule?

A. You mean that the lodge—

Q. Had adopted—

A. A rule?

Q. Yes.

A. Why, yes, this is an accepted—that is accepted by the lodge, as to membership, naturally.

Q. Well, now, you keep referring back to the cards.

A. Yes.

Q. But I am speaking of things other than cards.

A. You said, "a rule."

Q. The cards are in evidence.

A. You said "a rule."

Q. A rule, yes.

A. Well, that is an accepted rule, by the lodge.

Q. That is all?

A. How?

Q. Nothing else?

A. No, nothing else, so far as I know.

Mr. Block: Mr. Reporter, will you mark this card respondent's exhibit 42 for identification, please?

(The document referred to was marked Respondent's Exhibit No. 42 for identification.)

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Q. (By Mr. Block.) Mr. Swanson, showing you what 2736 has just been marked by the reporter Respondent's exhibit No. 42 for identification: is that one of the pink cards which you identified here before?

A. Yes, sir.

Q. Showing the wages—or rather, the dues, I mean, paid by the various members.

A. Yes, sir.

Q. That is the type of card that was involved in each of the cases you were asked about particularly; is that right?

A. Yes, sir.

Q. The same type of card?

A. Well, there is another card that is used at this time.

Q. No, no.

A. —(Continuing) That was not used at that time.

Q. No. the other cards I asked you about—

A. I don't mean—

Trial Examiner Dudley: One at a time.

Q. (By Mr. Block.) I asked you about a dozen cards, or more, and I want to identify this one now.

A. Oh, yes; that is the same pink card.

Q. They are all of the same type of card, is that correct?

A. Yes, sir.

Mr. Block: Now, if the Examiner please, we would like to leave this here if we may.

Trial Examiner Dudley: Do you want to introduce it?

2737 Mr. Block: Well—

Mr. Swiren: We will want to introduce it, but I do not think we want to introduce it in their case. We will wait until they get through.

Mr. Block: We will just merely have it identified for the time being, and leave it with the reporter.

That is all I have with the witness.

Trial Examiner Dudley: If you want to introduce it at this time, you may do so. You have got most of them read into evidence anyway, I guess.

Mr. Block: Yes.

Mr. Swiren: We just want one sample of them here.

Mr. Block: They have been mostly read in.

Mr. Walsh: Has counsel finished with the witness?

Mr. Block: Yes.

Mr. Walsh: That is all.

Trial Examiner Dudley: That is all; thank you very much.

(Witness excused.)

Mr. Keele: Off the record.

Trial Examiner Dudley: Off the record, Mr. Reporter.

(There was a discussion off the record.)

Trial Examiner Dudley: We will recess at this time until 2:00 o'clock this afternoon.

(Thereupon, at 11:45 o'clock a.m., a recess was taken 2738 until 2:00 o'clock p. m.)

*After Recess.*

(The hearing was resumed at 2:00 o'clock p. m., pursuant to the taking of recess.)

Trial Examiner Dudley: I will call the hearing to order.

Mr. Walsh: Mr. Yaeger.

FRED YAEGER, recalled as a witness for the National Labor Relations Board, having been previously duly sworn, and further testified as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) State your full name.

A. Fred Yaeger.

Q. Mr. Yaeger, you have previously been sworn, and have testified in this case, have you not?

A. Yes, sir.

Q. You were a steamfitter at Fansteel?

A. Yes, sir.

Q. How long did you work there?

A. About 14 years.

Q. I believe you occupied building No. 5 during the time the men were in the plant, did you?

A. Yes, sir.

Q. From February the 17th to February the 26th, 1937?

A. Yes, sir.

2739 Q. I will ask you whether or not there was heat on on in the buildings during that time?

A. Why, after we had the first gas attack, they shut the steam off, and then it was off until I guess, about Sunday evening, and then they turned it on for about an hour or so at a time; and we had quite a bit of trouble in keeping the steam pipes from freezing, and keeping the water pipes from

freezing. Some of the fellows was helping me drain some of the system when the steam was off, to keep it from freezing up and doing any damage.

Q. Well, I will ask you if one night it was necessary, for you to drain the steam lines?

A. Yes, sir. One night, I think it was about Wednesday night, they had the steam off for some little while, and a 2-inch water main broke about 3:00 o'clock in the morning.

Q. What was the occasion of its breaking?

A. Well, because the steam was shut off for two or three hours, and they had not turned it back on. The way those fellows would do, they would turn it on in our building for one hour, and then turn it off, and then turn it on over in the other building; and for some reason or other somebody slipped up on it that evening, and it was off from about midnight, I guess it was until after that steam pipe—or rather, after that water main broke.

Q. Did it break by reason of being frozen?

2740 A. Yes, sir; the pipe split.

Q. And as the result of that breakage of the water main, some water, I presume drained out?

A. Yes, sir, there was quite a bit of water. It happened to be on the third floor, and at the time I got down in the elevator pit, we had a quite a bit of water down there,—there was always quite a bit of water down there; and I got it shut off, but there was quite a bit of water on the third floor, and it was coming down on the second floor; and we had the machines covered up during the—that is when the windows were broken out; and we got saw dust, and swept up the water, and put saw dust all the way around; and I fixed the pipe, and then the water was turned back again so that nothing else would freeze.

Q. You kept the water taps open, did you?

A. Yes, sir, we kept water taps open so that none of them would freeze up, and we kept everything in as good condition as we possibly could.

Q. After the windows had been broken out—after the first gas attack, and during the first gas attack, when the windows were broken, did you make any repairs to those windows?

A. Yes, sir, we did. The steam was turned on—I think it was on a Sunday; and we went down to building 6, which they have been testifying about here, and they had some lamination in there, and we took some of that up and

2741 used some of that to cover the windows, and also some cardboard, what cardboard we could find; we fitted that in the windows to keep such—to keep as much heat in as we possibly could.

Q. Did you do anything about the machinery at all?

A. Why, yes, sir; right after the first gas attack, a bunch of the fellows went down in the shipping room, and they got some of that oiled paper that they used to ship their products over to France, that kept the sea air out, that was supposed to be waterproof paper, and we used that to cover all of the machinery upstairs with, to keep the rain and snow out, so that the stuff wouldn't get all damaged.

Mr. Walsh: That is all. You may inquire.

Mr. Block: Just one or two questions.

*Cross-Examination.*

Q. (By Mr. Block.) Mr. Yaeger, these things that you have been speaking about, occurred during the time while you and the other men were occupying these buildings, did they not?

A. Yes, sir.

Q. And these various things that you say you did with reference to the machinery, and the windows were done, of course, without permission of the company, were they not?

A. Yes.

Q. And they were done without consulting any of the officials of the company, were they not?

A. Well, we were holding the buildings in protest 2742 because they wouldn't—

Q. You were holding the buildings.

A. Yes.

Q. And that was done without consulting the officials of the company, of course, was it not?

A. Well, we was—what we were trying to do was not to have any more damage done to the buildings then was necessary.

Q. I am not arguing the matter with you, Mr. Yaeger, I just say, was it done without consulting the officials of the company? Answer yes or no.

A. Yes, sir.

Q. You did not consult Mr. Aitchison?

A. No, sir.

Q. Or Mr. Anselm?

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A. No, sir.

Q. Or Luther Henry, or any other official of the company?

A. No, sir.

Q. That is right, is it not?

A. Yes, sir.

Q. In other words, you men congregated there during this period of time, and decided for yourselves what was necessary to do in order to preserve the machinery, and properly protect the building, and you acted accordingly, without any consultation so far as the company was concerned?

A. Yes, sir.

2743 Q. That is the fact, is it not?

A. Yes.

Q. All right. Now, I suppose that many of the things you did in connection with the windows were done largely, if not entirely for the purpose of keeping the building as warm as you could, for your own comfort, were they not?

A. Well, that was one of the reasons.

Q. Yes.

A. You have a sprinkler system—

Q. Well, I say, that was the reason, or one of the reasons?

A. Well, yes.

Q. Yes. No one had suggested your leaving the premises, had they, and going home?

A. Not that I know of.

Q. No. And it was definitely concluded that you were going to remain there, was it not?

A. We were going to stay there until they either recognized the union or—

Q. You were going to remain there.

A. That is what we were figuring on, yes sir.

Q. Yes. Now, when some of those problems arose about the machinery, and other things, did you communicate the matter to the management?

A. I believe we did that night, when the sprinkler system— or when this pipe broke. I believe that we did  
2744 send one of the deputy sheriffs over.

Q. I see.

A. To see if it was all right to shut the sprinkler off outside.

Q. You say, you believe you did.

A. Well, I know that we told one of the deputy sheriffs to go over there.

Q. I see.



A. We told him.

Q. But you had at that time, many representatives on the outside, had you not?

A. Oh, I don't believe that there were many down there that evening, no sir.

Q. Well, there were the next morning?

A. I believe there was some.

Q. And the next day?

A. Yes, I guess there was.

Q. There were representatives and members of your lodge there daily and nightly, were there not, at some time or other?

A. I believe that is true.

Q. Yes. And you did not send any of them to the company, did you?

A. Why, I think that some of them did go to the company before they turned the steam on, and tried to—

2745 Q. Do you know anything about that yourself?

A. Well, no, sir, I don't, because I was pretty busy in there keeping the steam—

Q. Well, as far as you know, then, that did not take place, did it?

A. Not so far as I know, no.

Q. All right. And along the same line, that is, with the idea of protecting the property, you also moved certain articles that you found in the building, did you not?

A. Well, no, sir; I don't remember moving any articles.

Q. Well, now, did you not move somethings from one floor to another?

A. Not me.

Q. Not you?

A. No.

Q. I do not mean you personally, of course, but I mean, the men who were in the building.

A. I don't believe they moved anything around, no, sir, unless it was some stuff that was in the way of getting damaged.

Q. I see.

A. (Continuing) During the—or, from the water.

Q. And along the same line, that is, with the idea of protecting the property, you also moved certain articles that you found in the building, did you not?

2746 A. Well, no, sir, I don't remember moving any articles.

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Q. Well, now, did not—did you not move some things from one floor to another?

A. Not me.

Q. Not you?

A. No.

Q. When I say "you" I do not mean you personally, of course, but I mean, the men in the building.

A. No, sir, I don't believe they moved anything around, unless it was some stuff that was in the way of getting damaged.

Q. Yes.

A. (Continuing) Through the—from the water, with the water that was coming down. We moved some of the wire out of the Inspection Room.

Q. Which building was that—which building were you in?

A. 5.

Q. How did the acid get upstairs?

A. Why, I believe I heard somebody say—I believe Mr. Osenek said that he saw myself and a few of the men take that up on the elevator.

Q. Well, irrespective of who did it, did some of the men bring that up?

A. I don't remember seeing anybody taking any acid up there, no, sir.

Q. You saw it upstairs yourself, though, did you not?

2747 A. I believe I did.

Q. Where was it normally situated?

A. It was down on the first floor, and also there was some up on the fourth floor.

Q. Well, is it not a fair conclusion, then, that it was brought up during this period by somebody in the building?

A. Why—

Q. (Continuing) From February 17th to February 26th, 1937, by some of the men who were occupying the building.

A. Yes.

Q. Irrespective of who the individual was, or who the individuals may have been?

A. Yes, sir.

Q. Now, that is right, is it not?

A. Yes, sir.

Q. Now, of course, that was not done with the idea of protecting any of the property of the company, was it?

A. I don't know what it was brought up there for.

Q. No. And there was no need for that, for any purpose

of protecting the windows, or the machinery, or the pipes, or anything else, was there?

2748 A. How is that again?

Mr. Block: Read it, please.

(The question was read.)

A. I don't believe so.

Q. (By Mr. Block.) Now, how about the fire extinguisher?

A. I don't know anything about the fire extinguisher.

Q. You do not?

A. No, sir?

Q. Did you see that extinguisher—or those extinguishers, all up stairs?

A. Well, there was one down in the heat-treating building, that is where it has always been in the last number of years; and that other one—I don't know how that got down, on the third floor.

Q. But it did get down there?

A. Yes, sir.

Q. Or it did get up there, rather?

A. Well, no, sir; I believe that was originally on the fourth floor.

Q. But it got down to the third floor?

A. I don't know if they carried it down the steps, or what they did. The power was off.

Q. I say but it did get down there?

A. Yes, sir.

Q. Between February the 17th and February the 26th?

2749 A. I think so.

Q. All right. Now, Mr. Yeager, as a matter of fact—I will withdraw that.

How about some other articles? How about some spools, and things?

A. Well—

Q. Were they moved, and gotten together?

A. I believe there was spools on the second floor and the third floor all the time.

Q. Yes?

A. They used them to run the wire off on.

Q. Well, you got some of those together, did you not—that is, I do not mean you personally, but I mean, some of the men in the building had collected some of those together, to use in connection with the attack, had they not?

A. I don't believe they did.

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Q. You do not think there were any of those used at all, then?

A. Oh, I know—I saw a number of them. Some were used.

Q. Yes.

A. But I don't think that the fellows collected any of them together, because they were lying right along the benches there, right by the windows.

Q. They were lying along the benches?

A. Yes, sir.

2750 Q. Well, now, of course, so far as the fire extinguishers, the spools, and like articles, and the acid, were concerned, any handling of that property or those articles during that period was not with the view of helping preserve the property or machinery of the company, was it?

A. I suppose it wasn't.

Q. Pardon me. I did not hear. You say you suppose it was, or was not?

A. Was not.

Q. It was not?

A. Was not?

Mr. Block: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: You are excused. Thank you. (Witness excused.)

Mr. Walsh: Clarence Dreyer.

CLARENCE DREYER, recalled as a witness for the National Labor Relations Board, having been previously sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) You are Clarence Dreyer?

A. Yes, sir.

Q. You have previously been sworn and testified before in this proceeding?

A. Yes, sir.

2751 Q. Mr. Dreyer, you were one of the men who occupied building number 3 during the period from February the 17th to the 26th, 1937, were you not?

A. Yes, sir.

Q. Will you tell the Trial Examiner what the men in those buildings did in the way of protection to the machinery, during the time that the buildings were occupied?

A. Well, as far as the machinery goes, most of the machinery was on the second floor, and in the tool room. The machinery, a lot of it, was over next to the windows, all the way down the line; and they had these canvas roller shades on the windows, and after the windows were broken out, those shades were all pulled down, and we tried to block them up the best way we could, because there was no way you could nail them down, or anything else; so we laid bars and pieces of pipe or anything else we could get hold of, against them, to keep them down, against the windows, but there wasn't sufficient to keep out the mist, the fog; and the machinery was rusted to a certain extent, but nothing serious.

On the first floor we cleaned up all of the contact assemblies that were there; some of them were half assembled and some of them were all the way assembled; and we cleaned all that stuff up and put it away so that it wouldn't get spilled all over; also the jigs they use in the welding.

We had the same trouble with radiators as they had 2752 in the other building, and I believe we disconnected them altogether and drained the water out of them, and left them off for, I guess, twenty-four hours. Anyway, there was a stretch there when we didn't have no heat; and the sprinkler system also was shut off; but they notified the fire chief; and I think Mr. Nelson was notified about it at the time.

Q. Now, you worked in the cutting department, I believe, for a certain period of time?

A. Yes, sir.

Q. Are you able to tell me what are the common size rods that you cut?

A. Oh, the most—the size we had the most work on was a .149 diameter rod, and I believe a .172 rod; and a .125 rod. That would take in pretty nearly everything; that is, the most work was done on those three sizes.

Q. How many of the .149 rods—or, rather, how many contact disks would you cut from the .149 size rod in a day?

A. How many disks?

Q. Yes.

A. I believe at the time the trouble started, we were cutting around 16,000 disks per day; that is, that might vary 200 either way.

Q. That might vary 200 either way—

A. Yes.

Q. From 16,000?

1420 *Witnesses for National Labor Relations Board.*

2753 A. Yes, sir.

Q. And what percentage of waste, of culls, were you getting?

A. Well, our rejects ran about on an average, three per cent.

Q. Were those rejects entirely wasted?

A. No, sir.

Q. How were the rejects used?

A. Well, on the .149 rods, the main work is on breaker-arms, and the rivet that goes with them; and those sizes run next to each other. That is, the breaker-arm size is 35-1000ths up to 39-1000ths, with a 4-1000ths variation.

Q. That is, 35-1000ths up to 39-1000ths of an inch?

A. Yes, sir.

Q. In thickness; is that right?

A. Yes, sir.

Q. That is, the thickness of the disk which you would cut?

A. Yes, sir.

Q. Yes?

A. (Continuing.) And then the rivet, the rivet that goes with the breakarm, that size was 40 to 44.

Q. That is, thousandths of an inch in thickness?

A. Yes, sir.

Q. Yes.

A. For anything that was oversized on the breaker-arm disks, that was a good disk for the rivet that goes with it. But they were taken away from us, we were not paid for them, because they weren't the size we were supposed to cut.

2754 Q. I see. In other words, you were deducted for the disks that were rejected, or that varied more than 4-1000ths of an inch; is that right?

A. Yes, sir.

Q. But those disks could be used?

A. Yes.

Q. By some other—or, in another part; is that right?

A. Yes, sir, they could be used in other different sized contacts. Like with a .172 rod, why, that was a real thin disk, and anything that was oversize or under-size on it, they saved them, and remedied the size by the use of a tack, for the variation.

Q. That is, by the thickness or thinness of the tack upon which they set the contact point, is that right?



A. Yes, sir. Outside of that, taking the only waste, the real waste that could not be used for anything, would run—oh, about one-half of one per cent, I guess, or something like that.

Q. So that your actual net waste was about one-half of one per cent, you would say?

A. Yes, sir.

Q. All right. Now, how many disks per day of the .172 rods were cut?

A. Oh, I should say an average of 13,000.

2755 Q. And of the .125, how many were you cutting?

A. Of the .125 rod?

Q. Yes.

A. Around 18,000.

Q. Now, how many wheels would you use per thousand, on the .149 rods, or, rather, how many disks could you cut with one wheel, using a .149 rod?

A. Well, at that rate of speed we would get around 450 cuts off, with one wheel.

Q. 450 disks per wheel?

A. Yes, sir.

Q. Cutting 18,000 per day.

A. No.

Q. Of the .149 disks?

A. 16,000.

Q. Well, 16,000.

A. Yes, sir.

Q. How many disks were you cutting per wheel, of the .172 rods, when you were cutting 13,000 per day?

A. About 300, on the average.

Q. About 300.

A. Yes, sir.

Q. Now, I do not recall what you said the number of disks was that you were cutting of the .125 rods.

A. 18,000.

2756 Q. 18,000.

A. Yes, sir.

Q. And in cutting 18,000 disks per day, the diameter of .125, how many disks did you get per wheel?

A. Oh, I should say about 650.

Q. Now, when you increase the number of disks cut per day, what effect does that have on the cutting wheels?

A. It wears the wheels down quicker. I have worked on

that job long enough to know that in the past, when die production was stepped up, there was changes in the machines, to make step-up in production.

Q. Yes.

A. But last June they stepped up production without making any changes in the machines; and we pushed those machines faster than they should have been run.

Q. And what effect did that have on the cutting wheel?

A. Well, if you don't let your cutting wheel go its natural way, or, in other words, if you force it, it grinds it off quicker, and cuts it down quicker.

Q. In other words, it burns the wheel, is that right?

A. Yes, sir.

Q. Instead of cutting the rod?

A. Yes, sir.

Mr. Walsh: You may inquire.

*Cross-Examination.*

2757 Q. (By Mr. Block.) Mr. Dreyer, you have worked at Fansteel for quite some years, have you not?

A. Seventeen.

Q. How long?

A. Seventeen years.

Q. You always had a foreman there, I suppose, did you not?

A. We did.

Q. It was customary for the foreman to give instructions as to how, when and in what manner the work should be done? That is correct, is it not?

A. Yes.

Q. It was also the custom and the understanding that his orders—or their orders, the foreman's orders, were to be followed?

A. Always.

Q. They were the men who were responsible to the management, were they not?

A. Yes, sir.

Q. For the results obtained.

A. Yes.

Q. And you understood that?

A. Yes, sir.

Q. And there was no question but what the other men in your department understood that, was there?

A. I think they did.

2758 Q. During the years you were employed there?

A. Yes, sir.

Q. Therefore, that situation was the same in February, 1937, as it had been prior to that time, was it not?

A. Well, no, I don't think so.

Q. How?

A. I don't think it was.

Q. You do not think it was?

A. No.

Q. I see. If a foreman had his own opinion as to the manner in which a certain piece of work should be done, and some employe in that department under that particular foreman, had a different opinion, about that same piece of work, was the opinion of the employe followed, or the opinion of the foreman?

A. In February we were given a job, and they told us to use our own judgment.

Q. To use your own judgment?

A. Yes.

Q. Very well. But when the foreman came up to any man, or anybody in the department, to correct or make suggestions, were they ignored?

A. Well, if they were impractical, why, we would argue about it.

Q. I see. And at the conclusion of the argument, 2759 who was the judge as to which way it would be done?

A. Well, we would try it his way.

Q. You would try his way?

A. Yes, sir.

Q. And you understood that was the perfectly normal practice in the plant, did you not?

A. Yes.

Q. That is true, is it not?

A. Yes.

Q. And if a foreman told any of the men to change the speed of a machine, his word was, shall we say, the law of that department on that matter, was it not?

A. The foreman didn't tell us to change the speed of the machine.

Q. No, but I am asking you, if the foreman did that?

A. If he did?

Q. Yes.

A. We would try it.

Q. Yes.

A. And then if it didn't work, we would tell him.

Q. Well, the understanding was that his orders were to be obeyed, was it not?

A. Yes.

Q. And if it was a mistake, why, then he would be responsible for it, of course.

2760 (No answer.)

Q. Is that not naturally fair?

A. In a way.

Q. You could not run the factory any other way, could you?

A. Well—

Q. I mean, that is the way it always had been operated, was it not?

A. Well, I was trained to do my work in the most efficient way I knew how.

Q. I am not speaking particularly of you, Mr. Dreyer, but I mean, the men generally there. You had quite a few machinists in your department, did you not?

A. Quite a few.

Q. Yes; and the foreman was the boss?

A. Yes, sir.

Q. He gave the orders, did he not?

A. Well—

Q. To the men?

A. Our foreman used to give us a job, and he knew that we would do it the way it should be done.

Q. All right.

A. Without any particular orders.

Q. And if any question arose concerning any of those jobs, why, then the foreman would be the person to decide a dispute or difference of opinion, whatever it might be,

2761 that may have existed with reference to a particular job; is that not true?

A. Naturally.

Q. Yes.

A. If there was any doubt about anything, we would consult the foreman.

Q. Now, by the way, Mr. Dreyer, when you were in these buildings in the period from February the 17th to February the 26th, you were in building number 5, were you not?

A. No. 3.

Q. Building 3?

A. Yes, sir.

Q. Was there some machinery in that building at that time?

A. Yes, sir.

Q. What kind of machinery was it, in the main?

A. Well, it was—on the second floor, there was all of the machinery that a machine shop is usually equipped with. On the first floor was machinery of the company's own design, for use in contacting work.

Q. Special machinery, would you say that was?

A. How?

Q. Special machinery?

A. Yes, sir.

Q. Specially designed?

A. That was machinery that the company had designed itself.

Q. And it was, of course, used for production purposes—

2762 A. Yes.

Q. —when the plant was in operation?

A. Yes.

Q. Was that machinery oiled by anybody during the time you men were in there?

A. Oiled?

Q. Yes.

A. Now, I believe that at one time there was kerosene on some of it.

Q. What?

A. Kerosene.

Q. Kerosene?

A. Yes, sir.

Q. Do you know who did that?

A. No, I don't.

Q. When was it?

A. Well, I can't remember the exact date, but it was the first day of bad weather that we had, after everything started blowing in.

Q. And what kind of oil normally was used, when those machines were oiled, when they were in operation?

A. (No answer.)

Q. By the way, you do not remember which machines those were, do you, that the kerosene was used on?

A. There was one big machine up in the tool room,  
2763 I think about twenty feet from the stairway, that I noticed had kerosene on.

Q. How many more machines were there in that building?

A. Oh, I couldn't say how many.

Q. But that is the machine that you think somebody put kerosene on; is that right?

A. Yes, sir.

Q. Now, Mr. Dreyer, you have worked for Fansteel a long time, have you not?

A. Yes, sir.

Q. Is it not a fact that if the moving parts of those machines had been oiled during that time, they would not have rusted—if they had been properly oiled?

A. No, sir. The only places those machines were rusted—

Q. No, no.

A. Well, in the—

Q. I did not ask you anything about where the machines were rusted. I am asking whether it is not a fact, had those machines, or the moving parts of those machines, been oiled properly during that period, they would not have rusted?

A. I don't know that they were rusted, the moving parts.

Q. I am not asking you about that. I am asking you as to what effect the oiling would have had, on the matter of rust?

A. It would have the same effect that the kerosene would have, as far as rust is concerned.

2764 Q. That would be what?

A. To keep it from rusting.

Q. To keep it from rusting.

A. Yes, sir.

Q. Now, you men in the buildings there, had access to both buildings, that is, 3 and 5, did you not?

A. No.

Q. You say, you did not?

A. No—we did, the first day.

Q. I see.

A. But that was all.

Q. Well, were there not some men who left one building and went over to the other building at times?

A. Not after the first day.

Q. Now, those machines were not oiled, were they?

A. I don't know.

Q. Did you see anybody oil them?



A. I never seen nobody oil them, no, sir.

Q. All right. Now, I just want to ask you one more question, Mr. Dreyer, as to those figures that you gave with reference to the number of disks, and so forth, in connection with your work: In giving those figures you are merely quoting from memory, are you not?

A. Well, I know.

Q. You have not checked it, have you?

2765 A. I know that to be a fact.

Q. You mean, you know that is a fact—

A. Yes, sir, I do. I am not guessing. I am sure of it.

Q. You are not guessing at it?

A. No, sir.

Q. How recently have you informed yourself on it, on this matter?

A. Well—

Q. (Continuing) Or is it just from memory of what you were doing, during the time you worked there?

A. Well, I have worked on the job there so long that I should know.

Q. Well, then, that is what you are basing it on, is it, on your memory of what happened during the time you were working there?

A. Yes, sir.

Mr. Block: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: You are excused; thank you.

(Witness excused.)

Mr. Walsh: Joe Petraitis.

JOSEPH PETRAITIS, recalled as a witness for the National Labor Relations Board, having been previously sworn, testified further as follows:

*Direct Examination.*

2766 Q. (By Mr. Walsh.) You are Joe Petraitis?

A. Yes, sir.

Q. You have been previously sworn in this case—

A. Yes, sir.

Q. —and have testified here?

A. Yes, sir.

Q. What was your job at Fansteel?

A. My job?

Q. Yes.

A. It was a new kind of metal—

Q. No, what was your job?

A. Oh.

Q. Were you a machinist?

A. Yes, sir; swaging diemaker.

Q. Swaging diemaker?

A. Yes, sir.

Q. I believe Mr. Groll testified here yesterday that you slowed your machine down and did not run it at the speed at which the machine could be run. Now, I will ask you if you did slow your machine down?

A. No, sir.

Q. Did you slow your machine down at all?

A. No, sir. He never said nothing, and I never slowed up nothing.

Q. Now, at one time were you finishing some 548 steel dies?

2767 A. Yes, sir.

Q. Tell us, did you run your machine fast, or did you run it slow?

A. I run it slow, you can't run it any faster. If you run it faster, it will break the tool, and you can't do nothing with it. That steel, they don't harden that steel. They make it about two and a half inches by about an inch and a half, and an inch and a quarter square, and they put it on the machine, and after you get through, you have got to make a smaller die, on the number 3 machine, and after the number 3 machine you have got to make it about an inch long and about half an inch square; and then you have got to—

Q. I believe you have answered the question. Now, this particular kind of steel, after it has been used for a die, and you get back the used die to refinish or reface, whatever you do with it? Is it harder than it was before?

A. It is as hard as glass, after it has been used. You have got to grind it on a grinder.

Q. So that if you put one of those dies in the machine, and run it fast, it breaks the tool; is that right?

A. Yes, sir, absolutely.

Q. Did you ever see Groll, the foreman, talking to Du Bois?

A. No, I never did in my life.

Q. You never saw him talk to him?

A. No, sir.

2768 Mr. Walsh: You may inquire.

*Cross-Examination.*

Q. (By Mr. Keele.) Mr. Petraitis, how many notches are there on those machines?

A. What?

Q. How many notches are there on those machines?

A. Well—

Q. That is, for speed.

A. One.

Q. Only one notch?

A. Yes, sir.

Q. There are not two notches?

A. No—well, there are two notches, and you can take three, but it isn't good.

Q. In other words—

A. It won't work.

Q. I understand. But the machine has got three notches on it, for three different speeds, has it not?

A. Yes, sir, or maybe four; I don't know.

Q. I see. Did you ever try to use that machine in the second notch?

A. No, sir.

Q. You never tried it, even?

A. Oh, I tried it, yes, sir, but it won't work.

Q. It will not work?

2769 A. No, sir.

Q. In other words, you experimented to find out if it would work in second speed, and you found it would not work in second speed, or in the second notch; is that correct?

A. I don't know.

Q. Well, let me see if I can make it clear to you. You say you did try it in the second notch, in second speed, did you not?

A. Yes, sir.

Q. But it would not go that way?

A. It wouldn't work.

Q. It would not work?

A. No, sir.

Q. What happened when you put it in the second notch?

A. It breaks the tool bit.

Q. Breaks the tool bit?

A. Yes, sir.

Q. So you put it back in the other notch?

A. Yes.

Q. Number one notch.

A. I put it back and always work on number one notch.

Q. I see.

A. That is the only way to work.

Q. All right. Now, when was it that you tried it in the number two notch?

2770 A. How?

Q. When was it that you tried it, and found that it broke the bit, in number two notch?

A. When was it?

Q. Yes.

A. When I was first starting to work there on that steel.

Q. When was that?

A. Oh, I don't know; I couldn't remember that. Last winter some time, it was.

Q. Some time last winter?

A. Last winter or last fall, whenever they first started using that kind of steel.

Q. That was a year ago, was it?

A. Oh, I don't know when it was.

Q. How?

A. I don't remember exactly when it was. I didn't keep any track.

Q. Did you tell that to Mr. Groll?

A. How?

Q. Did you tell that to Mr. Groll, the foreman, that it could not be run in second speed?

A. When we started using that steel, Jack Welsh was the foreman.

Q. I see.

A. And when Groll was foreman, I asked him—he  
2771 gave me the job, and I asked him if he knew anything about that steel.

Q. Yes.

A. And he said "Yes". I says, "well, it is pretty hard." I says, "I can't work any faster. You have got to run it slow. Otherwise it won't work at all." He says, "All right, go ahead and do it." Then he went to that kid in there, Eddy, and he told me to show him how to work it. That is the only way you can work it.

Q. In other words, you had learned, when you were working under Welsh, when you first started working on that steel, that if you ran it faster than the first notch, you would break the bits?

A. Yes, sir.

Q. So that when Groll came there, you told him that, did you?

A. Yes, sir, I told him.

Q. He asked you if you knew anything about working with that steel?

A. Yes, sir, and I asked him.

Q. You told him that the machine had to be run in the first notch?

A. Yes, sir.

Q. That is right, is it?

A. How?

Q. You told Groll that the machine had to be run  
2772 in the first notch?

A. No, I never told Groll. He told me.

Q. I thought you said—

A. I worked on the job, and he told me to go ahead and do it.

Q. He told you to go ahead and do it?

A. Yes, sir.

Q. Did he not tell you—

A. He didn't say anything else to me.

Q. He did not tell you anything about speeding up the machine?

A. No, not a thing.

Q. He did not say anything at all to you about speeding up the machine?

A. Not at all.

Q. How?

A. Nothing; he didn't say nothing.

Q. Well, did he come back after he talked with you the first time, and tell you to speed that machine up?

A. He never say nothing like that.

Q. He never had any conversation with you with reference to that?

A. He never said nothing about speeding up anything, to me.

Q. He did not?

A. No, sir.

2773 Q. Well, is the conversation that you have given us here the only conversation that you had with him with reference to working on that steel?

A. How is that?

Q. I say, did you ever talk with him again, about working on that steel?

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A. No. He never said nothing. That is all I asked him, if he knew anything about that steel, and he says, "Yes", and he asked me if I worked before on it, and I says "Yes", and he says, "Go ahead and do it".

Q. And that is the only thing he ever said to you about it?

A. That is all he ever said to me.

Q. Well, did he ever talk to you at any other time, about the speed of your machine?

A. No, sir.

Q. He did not?

A. No, sir; he never say anything.

Q. Well, now, did you always run that machine in first speed, even though you were working on something other than that steel that you have been talking about?

A. No, sir.

Q. Then there were times when you ran your machine faster than the first notch, were there not? On some of the work you could run it faster than the first notch, could you not?

A. On some, yes sir, on some of the work, on some 2774 of the steel I ran faster.

Q. Yes.

A. But not this steel, though.

Q. How?

A. But on other steel?

A. Yes, sir, I worked faster, but that was the only steel I worked slow, that 548.

Q. But on the other steel you worked faster?

A. On the other steel I could work faster.

Q. You could work faster on it?

A. Yes, sir.

Q. Well, what notch did you use your machine in, on those steels, the other steels, the softer steels?

A. Two and three; sometimes.

Q. How did you ever discuss the speed of your machine, or the notch you set it in, with Groll, in connection with working on the other steels?

A. No, sir, he never say anything to me.

Q. He never said anything about it?

A. No, he never say anything about it.

Q. Did he ever come up and set your machine up at a certain speed?

A. He never touched my machine.



Q. He never did?

2775 A. No, sir, he never did—not that I saw. When I run a machine, I run the machine.

Q. Regardless of what the foreman says, you run your machine, do you?

A. How?

Q. I say, regardless of what the foreman says—

A. Yes, sir.

Q. How?

A. What do you mean?

Q. Well, you say that when you run a machine, you run that machine.

A. Yes.

Q. What do you mean by that?

2776 A. Well, I mean that when I run a machine, I do my job, and I set it.

Q. You do not take orders from anybody?

A. I take orders, what he tells me to do.

Q. And if he told you how to do it, what about that?

A. He don't tell me how to do it.

Q. If he did tell you how to do it.

A. I have to take his orders, yes, sir.

Q. I see. So that if he had told you to run that machine in the second notch, on the hard steel, you would have done it, wouldn't you?

A. Why, sure I would have done it, but it wouldn't work.

Q. Well, that is not your worry, is it?

A. How it that?

Q. That is the foreman's worry. If it breaks the machine, that is up to him, if he has ordered you to run it in second speed; that is so, is it not?

A. If he tells me to do that, that way, I have got to do it.

Q. So that if Groll told you on that hard steel, when you were cutting that 548 die, to run that machine in the second notch, you would have run it, or tried to, that way, would you not?

A. If he tells me to, I would run it that way.

Q. And you would have done the best you could with it?

A. Why, sure.

2777 Mr. Keele: I think that is all.

Mr. Walsh: Nothing further.

Trial Examiner Dudley: That is all; thank you.  
(Witness excused.)

Mr. Walsh: Theodore Ohlson.

THEODORE OHLSON, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) You are Theodore Ohlson?

A. Yes, sir.

Q. You have been previously sworn, and testified in this proceeding, have you?

A. Yes, sir.

Q. Were you present at the hearing the other day when Mr. Groll testified?

A. No, I wasn't.

Q. Well, Mr. Groll testified that it took you a long time to face certain plates, or certain disks that are used by Ramet. I believe his testimony was that it took you twelve hours to do a certain job that was done by another man in three hours.

Now I will ask you if you remember having faced certain plates for Ramet.

A. Oh, I have faced them plates plenty of times, yes, sir.

2778 Q. Well now, will you just go ahead and tell the Examiner here what kind of plates those are, what they are made of, what they are used for, and what you have to do to them when you face them.

A. Well, those lapping plates are large diameter cast iron plates, made out of cast iron, about I should judge two feet or two and a half feet in diameter, and when they are new they are about two inches thick.

Q. What do they weigh when they are new?

A. Well, they probably weigh 80 pounds, or 90 pounds, and they are used by the Ramet-Vascoloy people for lapping down their ramet tool bits, because they seem to be about the only thing they can get, to cut them down; and that is used to take the burrs and the rough spots off them tool bits.

Q. Well now, at certain times did you have to reface those plates which you have described?

A. Yes, sir. Them plates get wore, and then they have got to be refaced.

Q. All right. Now the machine upon which you did that work: is that in the tool room?

A. No, it isn't.

Q. Where is it—or where was that machine located with reference to the tool room?

A. That machine was located over in building 6.

Q. And the tool room is where?

2779 A. On the second floor in building 3.

Q. And how did you go about—you tell the Examiner what you had to do to those plates.

A. Well, them plates were brought over from Ramet, over to building 6, and they had to be put up on a lathe, and just screwed on there.

Q. Is it possible for one man to fit one of those plates into the lathe, and into the—whatever it is that holds it?

A. Oh, it is possible if he is a good strong man, yes, sir, but—

Q. Well, did you have—

A. (Continuing)—when Jack Welch was foreman in there, he never said that one man should try to lift them plates.

Q. At the time when you had to face those plates, were you furnished with a helper?

A. Well, we were not furnished with one, no, sir. We had to get—

Q. What would you have to do, in order to get somebody to help you?

A. Just ask the foreman to have a man go over and help us put them plates on the machine.

Q. All right. Now, what about the setting of the speed or the feed of the machine?

A. Well, that is set—on the face of them plates, they want a kind of certain surface, so it will lap them tool bits  
2780 down better; and that surface was—that is, they had—the foreman of the Ramet department, and Mr. Groll fixed their own speed, and their own surface that they wanted to be cut on them plates.

Q. The foreman of Ramet, who was going to use those plates—

A. In his department.

Q. —and Mr. Groll—

A. Yes, sir.

Q. (Continuing)—figured the speed at which the machine should run, did they?

A. Yes.

Q. Also the feed at which the bit should cut, or at which the tool should cut; is that right?

A. They were the ones that figured it up, yes, sir, where they got the best surface on the plate, with the best speed that the machine could do the work at.

Q. Now, you had nothing to do, then, with setting the machine, or setting the feed and the speed, did you?

A. Well—

Q. That is, except on the instructions which you received. I mean, you took the orders which they gave you about setting the machine.

A. Yes, sir.

Q. That is right, is it not?

A. Yes, sir.

2781 Q. Now, how long did it take, at the speed and feed at which you were required to run the machine, to make the cut on those plates?

A. Well, after it was set up and ready to run, that cut would take at least an hour.

Q. At least an hour.

A. Yes, sir.

Q. And then after the cut itself was made, was there some trimming up to be done?

A. Yes, sir, there was, because they wanted that face of the plate—it was recessed in there, so that it left a little wall about three-sixteenths of an inch, or a quarter of an inch on the outside edge, or the outside circumference of that plate, so that if the ramet bits would get loose, they wouldn't fall down into the tube part of the machine, but they would land on top of the plate.

Q. And then of course after you had cut the face down, it was necessary for you to trim the edges, was it not?

A. Yes, sir, so that there would be about a three-sixteenth or a quarter of an inch shoulder around the outside edge.

Q. Yes. Then after you had finished cutting one plate, what did you have to do with the tool?

A. You make one cut across that plate, and the tool bit would be wore so that it would have to be resharpened.

Q. And you would have to resharpen the bit?

2782 A. Yes, sir.

Q. After each cutting of that plate; is that right?

A. Yes, sir.

Q. Then it was necessary for you to change the plate.

A. Yes.

Q. To remove the one that you had finished, and put on another one?

A. Yes, sir.

Q. Were you able to do that alone?

A. No, sir, I never done it alone.

Q. Whom did you get to help you do it?

A. The one I usually got was Charlie Petkas, because he was a big two hundred pounder, a big, husky man.

Q. And he could hold it on while you adjusted it in the machine, is that right?

A. Yes, sir.

Q. Where would you have to go to get a tool?

A. Up in the tool room.

Q. Did Groll know that those were the conditions under which you had to work? Did Groll know that?

A. Why, sure he knew it. When he gave you the job, you would have to ask for a helper.

Q. I see. Now, at the time the trouble broke out there on February the 17th, had they used—or were they continuing to use the same lathe that you did these jobs on?

2783 A. Yes, sir.

Q. They were using it?

A. Yes, it was the same.

Q. Do you know whether they are using that lathe now?

A. No, sir, they are not.

Q. Do you know whether or not they have a new lathe for that purpose?

A. Yes, sir.

Q. At least they are using a different lathe?

A. They are using a different lathe.

Mr. Walsh: That is all; you may inquire.

Mr. Swiren: Just a moment.

Mr. Walsh: Oh, pardon me; there is one more question, if the Examiner please.

Q. (By Mr. Walsh.) About how many plates would you do at a time, or did you do them more than once?

A. Yes, I done it more than once.

Q. You did it more than once?

A. Yes, sir. I done it a good many times for Jack Welch, but I only done it once—

Q. For Mr. Groll?

A. For Groll.

Q. How many plates did you do at that time?

A. Four.

Q. Four?

2784 A. Yes, sir, but the times I done it for Groll, I only done three.

Q. You only did three?

A. Yes, sir.

Q. Do you recall how long it took you to do it?

A. Well, on the average it would take about between seven and eight hours.

Q. Between seven and eight hours?

A. For four plates.

Q. For four plates.

A. Yes, sir.

Q. Do you remember how long it took you to do the three plates?

A. No, I can't say.

Q. You did not run into any special trouble?

A. No.

Q. Or anything that was different from the other times when you had done it for Walsh,—did you?

A. No, sir, I can't say that I did.

Mr. Walsh: All right. You may inquire.

*Cross-Examination.*

Q. (By Mr. Swiren.) When did you do the job for Groll?

A. I think that was on the Monday before the strike.

Q. That was the only time?

A. That was the only time I done that job for Groll, yes, sir.

2785 Q. And you say that you know now that there is a different lathe being used there?

A. Yes, sir.

Q. Where was the lathe that was being used before?

A. How is that?

Q. Where was the lathe located, that was being used before?

A. The lathe that was used before was located in the back of building No. 6.

Q. On the first floor, near the runway; is that right?

A. Yes, sir.

Q. Right near the large grinder?

A. Yes, sir.

Q. That machine—

A. That grinder wasn't in there the last time I worked in there.



Q. I see. How far is that lathe from the door?

A. From the door?

Q. Yes.

A. From the door—well, I should judge about—well, there are three doors right in a row there.

Q. Well, how far is it to the side door, leading right to the yard; seven or eight feet?

A. About that, I think.

Q. Yes. Then if you wanted to go across to the tool room, you would go out that door, and go across the yard, 2786 would you not?

A. Yes, sir.

Q. And you would go up to building 3, which is what—how far away?

A. Well—

Q. 150 feet?

A. There is one building in between there.

Q. About 150 feet away.

A. Well—

Q. Or 100 feet away, would you say?

A. Oh, it is all of 150 feet away; I would say.

Q. All right. And then you would have to go upstairs, to the tool room?

A. Yes, sir.

Q. On the second floor.

A. Yes, sir.

Q. And that might take you about five minutes, to go from the tool room to the lathe?

A. I should judge so.

Q. So when you went to get a helper, that is about the time that you would have to consume for that purpose; is that right?

A. Well—

Q. That is, five minutes to walk over, and five minutes to walk back.

2787 A. And maybe a few minutes waiting there, if Charlie happened to be doing something. He might have to finish a little out on some job, or something, and you would have to wait for him.

Q. You got a helper whenever you needed one, then, did you?

A. Oh, yes.

Q. So that you did not have to lift the plates alone?

A. No, sir.

Q. Mr. Groll expressed himself as not being satisfied with the time that was being spent on that job, did he not?

A. From what I heard of the testimony, he did, yes, sir.

Q. Yes.

A. (Continuing) That is, I didn't hear what his testimony was, but they all say that he did.

Q. You knew it before, too, did you not?

A. How?

Q. You knew it before, too, did you not?

A. On that particular job?

Q. Yes.

A. No, sir.

Q. That was just a day or two before the—

A. Strike.

Q. —Before the sitdown.

A. Yes, sir.

Q. And since then you have learned about what is going on in the plant, have you?

2788 A. Some, yes, sir, but I know about that lathe because—

Q. Go ahead.

A. (Continuing) —the day I was working on it, they said that was the last time that machine was going to be used on that job.

Q. And where is the lathe that is being used on the job now; that is, where is it located?

A. That machine is located over in the old carpenter shop.

Q. That is in what building?

A. Oh, I don't know what number building that is, but it is where the old carpenter shop used to be.

Q. Well, have you seen the new machine, the new lathe being used?

A. No, sir, I haven't.

Q. How do you know about its being used then?

A. Well, I know it is being used.

Q. Well, tell me how you know.

A. Well, I know, because I heard that it was being used.

Q. Where did you hear it?

A. (No answer.)

Q. Let us have it, Mr. Ohlson. Where did you hear it?

Mr. Walsh: That is objected to as immaterial, if the Examiner please.

Q. (By Trial Examiner Dudley.) Did somebody tell you, Mr. Ohlson?

2789 A. What?

Q. Did somebody tell you that it was being used?

A. Well, yes, sir, somebody did tell me.

Mr. Swiren: Well, let us have it.

Q. (By Trial Examiner Dudley.) Do you remember who it was?

A. How?

Q. Do you remember who it was, that told you about it?

Mr. Swiren: If the Examiner please, I suggest that I be permitted to ask my questions of this witness in my own way. This witness testified on direct examination that he knew, and I would like to find out just what he does know. I think the Examiner ought to wait until I finish, before that sort of question is put.

Mr. Walsh: I wish to further object to the question, if the Examiner please, on the ground that it does not make any difference how the witness heard it, if he knows; and of course if it is untrue, the company can refute it.

Mr. Swiren: Let us first find out from the witness how much he knows about it. He has testified on direct examination about it.

Q. (By Trial Examiner Dudley.) Do you remember, Mr. Ohlson?

A. All right, I will tell you. Mr. Dugan told me.

Q. (By Mr. Swiren.) Mr. Dugan told you?

A. Yes, sir.

Q. And did you ask about what was going on in the  
2790 plant? Is that the way you found out?

A. No, sir, I didn't ask what was going on in the plant.

Q. How did he happen to tell you; how did you happen to find out, then? Did Dugan just come up and tell you?

A. No, sir.

Q. Well, just go ahead and tell us all of the circumstances under which you found out.

A. Well, I happened to ask him one day if they did discontinue using that machine over there for them plates, and he says, "Yes, they did, and they are now using that big lathe over in the carpenter shop."

Q. You had in mind some of the problems that you faced, when you worked there just before the sitdown; is that right?

A. How is that again?

Q. I say, you had in mind some of the problems that you faced, when you worked there, just before the sitdown?

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A. Sure.

Q. And that is why you were interested to know whether there had been any change, or not?

A. Well, I just was interested to know whether it was being done more successfully over there.

Mr. Swiren: I see. That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: That is all; thank you very much.  
(Witness excused.)

2791 Trial Examiner Dudley: We will take a few minutes' recess at this time.

(A short recess was taken.)

Trial Examiner Dudley: I will call the hearing to order.

Mr. Walsh: Art Holm, Sr.

ART HOLM, SR., recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Art Holm, Sr.?

A. Yes, sir.

Q. You have been previously sworn, and testified in this proceeding?

A. Yes, sir.

Q. Mr. Holm, I will hand you Respondent's Exhibits Nos. 31 and 33, and ask you to state whether you have ever received those documents from the office?

A. No, sir, I have never seen either one of those pieces of paper before.

Q. Did you ever receive the original, or any copies of those papers?

A. No, sir, I have not. I never seen one like them before.

Q. Well, directing your attention to Respondent's Exhibit No. 31, a memorandum dated October the 15th, from Mr. Anselm to Holm, Welch and Philips, designating a  
2792 move of the Tantalum Department from the west half of the tool room; you made that move, did you?

A. Oh, yes, we talked that over, but I mean, I never seen it in typewritten form like this.

Q. Under what circumstances did you talk it over?

A. Well, he just gave me orders to move it.

Q. What had to be moved?

A. Well, before we could even start, why, we had to move a whole row of automatics; we had to make room—

Q. Automatic what?

A. Automatic screw machines.

Q. Are they large machines?

A. Well, they weigh around 1500 to 1950 pounds.

Q. And how many of those machines were there, in the row that you had to move?

A. I believe there was nine in that row, eight or nine.

Q. And did you have to move those machines to some other part of the building?

A. Oh, yes.

Q. Was the space already prepared; had you previously prepared the space to which those machines were to go?

A. No, sir. We had to take part of the— There was equipment there, on the east end of the building, so we kept shoving that back out of the way, and taking a machine off of the other end, the west end, until we got room enough 2793 to get a piece of equipment back on the west end; and we was just going around in circles, you might say.

Q. Were you furnished with any blueprint, as to where those machines were to go?

A. No, sir, there was no blueprint.

Q. Did they furnish you with any electrical blueprint of the power lines, indicating where the power lines were to be put?

A. No, sir. We had only one little pencil sketch, I believe, that showed four lights up in the ceiling; but as far as any blueprint was concerned, there was no sign of a blueprint.

Q. Did these machines that you were moving in there—or that you were moving, require power or shafting, or anything like that?

A. Oh, yes.

Q. I will ask you whether you got that job finished over the week end; did you finish that over the week end?

A. Well, we never shut down production there for one hour. To get that job up the way it is now, it took a brand new box, and a big switch; but when we were working on it, we just took and strung a couple of shorestrings across the floor for about 100 feet, so that they could use the welders; and we had it all hooked up so that they could use it on Monday morning, so that they could run the welders. There was nothing tied up; there was no production shut down.

2794 We had no layout, and we didn't know where to run the pipe in the first place. All of our permanent electrical stuff is in conduits. So, like I say, we just strung what we call shoestrings there.

Q. But they were able to operate on Monday morning; is that right?

Mr. Swiren: Now, just a moment. That is objected to. I don't think it makes any difference whether they were able to operate or not. This man had instructions, and he either carried them out, or he did not; and whether the company could operate or not, is not the question. If the man was fired for not carrying them out, whether the company could operate or not is immaterial. The question is, was he discharged for being a member of lodge 66, and engaging in union activities.

Trial Examiner Dudley: Oh, his testimony would have a bearing on the speed at which he was able to work, and the matter of using his own judgment, and so forth.

Q. (By Mr. Walsh.) Would it have been possible—with the instructions which you received, would it have been possible to premanently establish—or to have permanently made that move over the week end?

A. No, sir, it couldn't be done, because we had to get the Public Service down there, and put in a new feed line. We had no power in that building, on the west end at all, but just a lighting system. There was no power there at all.

Q. So that if the job was not completed permanently, by Monday morning, it was through no fault of your own?

A. No.

Q. But it was necessary, as you say, to get the Public Service Company in there, to put in the power line?

A. Well, sometimes they would move quick. We have hooked up jobs temporary, and sometimes we wouldn't finish them up for three or four months.

Q. I see.

A. Until we found out exactly where they wanted them permanently. But there was no blueprint on this job; it was just verbal.

Q. Now referring to Respondent's Exhibit No. 33, which is a memorandum dated December 9, 1937, from Mr. Anselm addressed to Holm, Nelson and Streed, referring to a new form for the reporting of labor on various jobs: did you receive such forms and such instructions?



A. Not in that month, no, sir. We had a new form, but that was during Mr. Dow's administration there, I believe. We used to have just a little salmon-colored card about three by six, and every morning I would just make out a different card, and charge it to the different departments. Sometimes I would have thirty or forty cards.

Then some time after that they turned around and got out big sheets, about as big as that one there, I should judge (indicating); and on that, instead of making out individual cards for each job, I just put down the man's name, and the number, and the job he was on, with the different hours, until his day's work was completed.

Q. That would be a sheet, say, eight by fifteen, would you say; about the size of a legal-size sheet of paper?

A. Well, it would be a pretty fair size--well, it would be about the same size as that yellow piece of paper that you have there.

Q. About the size of this yellow legal tablet that I have.

A. Yes, sir. They were wide.

Q. They were wide.

A. Yes, sir.

Q. Now did you continue to use those forms?

A. Oh, yes. We had orders to finish them before we went home at night, so as to make sure that the kid could get them the next morning.

Q. All right. Now, referring to Respondent's Exhibit No. 34, which is a memorandum from Mr. Anselm, dated October 7th, 1936, directed to yourself, setting out various items of work to be done: I will ask you to read that over and tell me whether during the month of October you finished all of the work in the carpenter department called for by these various items here.

A. Well, this here is just—I had about—maybe a couple of them every month, or every two months. It is only 2797 to make sure that all of the jobs are completed. I would have maybe seventy-five jobs, and sometimes they might overlap; that is, we would start one job, and then maybe we would have four or five jobs going, and we would have this going, so that they would be overlapping; and then he would ask me when I was all through; he didn't know whether I was through or not. He could see it, maybe, but he would say, "What are you going to do with this" or "with that"? And I would suggest that we ought to put in a cupboard, or a storage bin, or something. This storage room in the ware-

house, that is complete. The reason these jobs are not complete, he knows just as well as I do, why they are not complete.

Q. What is the reason—or what was the reason that they were not completed during the month of October, if they were not completed?

A. All this amounted to was tacking a little insulation around on the inside of the building, and putting in some lights. We had temporary lights in there. We didn't shut off the power. Then we would get a rush job; at that time they were remodeling the office, and I think that I had the electricians over there off and on for three weeks; and they were working on this in between.

Q. I see.

A. And the same way with the carpenter work. We installed a Marcy mill down there in that building, and it 2798 was a pretty big job, and we had no blueprint on it; so we put it up the best way we knew how. It was all concrete. The pipes are buried in the cement. When we got down to the final little pieces attached to it,—you understand it takes two machines to make one; it is a kind of around-the-loop proposition—after we had it all installed in the concrete, they found a blueprint that Mr. Luther Henry had in his drawer, the whole complete outfit that we were looking for for a month. So after we got that blueprint, why, we done some extra work. We found out that we were not quite high enough. We had to make the hood, or a connection from one spout of the machine; so we remodeled it to fit the blueprint. That blueprint we got after we was practically through with it; the power was in, and it was ready to run; but nobody finished this here metal work on the end. That wasn't our work at all. The man I had down there part of the time was the man I had working in the die room; and maybe I would alternate back and forth.

Q. Now, Mr. Holm, are there any other jobs on that list that were not finished during the month of October?

A. Well, this skylight was not completed. We would have got that in, if they hadn't gotten into an argument. That job would have been about a one day job for four men, that skylight that they are bellyaching about.

Then this window sash, that was a piece of glass 2799 that we stuck in the window to keep the wind from blowing on Mr. Raithel,—or it was a piece of plate glass struck up against the window with metal straps on it.

Q. Like a ventilator?

A. Yes, sir; it just deflected the wind when he opened up the window.

The next job is done. That job is complete.

There ain't a job on there that isn't running now. There is one job that I didn't finish, of course, and that was the skylight; but the rest are completed.

Q. You did not finish the work in building 6.

A. No.

Q. Did you make the necessary benches for the Contact Grinding Department?

A. No, but that is all, I believe.

Q. I will hand you Respondent's Exhibit No. 32, which is an interoffice memorandum from Mr. Anselm to yourself, dated November 23rd, 1936, and directing your attention to the second line there, I will call your attention to items 3 and 4 in building 6—I think it is.

A. Yes. Well, this here, they just overlapped.

Q. I see.

A. Do you see what I mean?

Q. So that this was carried on to the next month; is that right?

2800 A. Well, sometimes we would be—we would keep a job going—on some of those jobs we would be running a month, maybe, and then we would make a change, so that we wouldn't complete the job—

Mr. Swiren: Pardon me, but I suggest that the last question be read to the witness. We are getting lost in these long, rambling answers.

Trial Examiner Dudley: Read the question, please.

(The question was read.)

A. These here jobs on these sheets, until they are complete, they overlap onto the next page.

Q. (By Mr. Walsh.) Until the next memorandum came out?

A. Yes.

Q. Is that what you mean?

A. Yes, sir.

Q. All right. I will hand you Respondent's Exhibits 30-A to 30-G both inclusive, and ask you to examine that exhibit, or that group of papers. Did you ever receive those various work orders? Will you look through the exhibit,—or have you examined it already?

A. This is one I have never seen.

Q. That is Respondent's Exhibit 30-A; is that right?

A. Yes, sir.

Q. What is the date of that?

A. February 11th.

2801 Q. Calling upon you to do what?

A. Well, it looks like it is about a half an hour's job, to go over there to put a little putty in a window.

Q. Now, referring to Respondent's Exhibit 30-B, what does that—or, first, what is the date of that, and what does it direct you to do?

A. Well, this here is a repair on the sprinkler system. Those buildings have a sprinkler system in them, and they have a main valve in one corner of the building.

Q. In which building?

A. In each building.

Q. In each building.

A. Yes.

Q. Yes.

A. They have their own separate valve, that controls it from the outside, or the street, into the building.

Q. Yes.

A. Well, now, in this here big piece of metal fitting, there is a valve in there. The pipes themselves are perfectly strong, they way they have them there, but they have a big valve that works on a hinge, and it has a soft rubber ring, and if anything breaks,—there is about forty pounds of air that holds down about sixty pounds of water, and if anything breaks there, the air goes out and the water comes through. Well, if it leaks,—if there is just a leak in the valve, of course

2802 the water goes in, and the system might freeze up.

This a dry system they have, where they have no heat. Well, we have a man down there. I didn't have nothing to do with it. We installed it, but that watchman goes around and keeps the air on. You see, the air seeps out, sometimes, and they have got to watch it, so he comes up there. So when he declined—it is a little rubber gasket, just a little soft rubber gasket about three-eighths of an inch square, that runs all the way around this big valve, and he thought maybe that rubber was worn, and that is the reason it was leaking.

Q. That is commonly known as a dry ring, is that it?

A. We call it a dry ring, yes, sir. It keeps the system dry.

Q. Yes.

A. So we ordered a new one. Whenever we get this kind of a job, I have got to go to the superintendent, and find out when they are going to shut down. I can't shut the plant down. I fix it when he gives it to me.

Q. Yes.

A. Well, in this case I talked to this man twice in the shop.

Q. By "this man", whom do you mean; you spoke to whom?

A. Mr. Nelson.

Q. Yes.

A. (Continuing.) And I says, "Well, do you want us to take it out? It is a big job; you may have to take out about 75 bolts, take the whole thing out." He says, "What is the use? It is holding now."

You see, you have got to be real particular, and clean that out perfect, because if you leave one little piece of grit in there, of course it will seep through.

Q. Who was Mr. Nelson?

A. What?

Q. What did he do?

A. He is chief watchman, who has charge of the boiler house.

Q. Chief watchman in charge of the boiler house.

A. Yes, sir.

Q. Was it his duty to inspect these sprinkler systems?

A. Well, there is an inspector comes around every month, to inspect them.

Q. Somebody from the outside?

A. I think from the insurance company. He comes around and inspects them.

Q. Some outside inspector also comes and inspects them?

A. Yes, sir.

Q. And Mr. Nelson was of the opinion that it did not need changing; is that it?

A. You see, after he cleaned it out again, and put it in, why, she held.

Q. I see.

2804 A. And I said, "Well, if you don't want to shut it down, O. K." It wasn't hurting anything; it didn't hurt anything if the water went in there.

Q. I see.

A. Except in the wintertime, it would freeze up and bust; but in the summertime, it wouldn't hurt anything.

1450 *Witnesses for National Labor Relations Board.*

Q. What is the date of that order?

A. That is the 25th of November.

Q. And Mr. Nelson, whose duty it was to keep track of those things, told you that it was all right; is that it?

A. He gave me the O. K., and I said, "All right; then we are through."

Q. I see.

A. I said, "O. K.; if you don't want us to, we ain't going to fix it, because it is going to be a good big day's work."

Q. All right. Now, what is the next one? Respondent's Exhibit 30-C—

A. Well, this here job I think they are mistaken on. I think this job is about two years old.

Q. What is that job?

A. Well, that is a little partition in the basement, about—oh, I should judge 16 feet long; and all it really amounted to was to shut off a part there, where they used quite a bit of acid. They put a new centerless grinder down there, and they thought that maybe the fumes were getting to the metal; 2805 so they wanted to know about putting a partition in there; and I think maybe I would get three or four of these copies, but before we would ever get to it, we would move the equipment some place else.

Q. And that was never done?

A. There was no emergency about it.

Q. What is the next one there; Respondent's Exhibit 30-D.

A. Let me see.

Q. What is the date of that?

A. This is dated June 20th, 1936. Yes, I got this copy, but I see that they have got a mark on it. Let me see. They called in an outside contractor to do this job on the 12th and 15th. Well, that job wasn't done I know on the 15th of February. I don't know who put that on there. I didn't.

Q. Well, what were the reasons for not doing the job?

Mr. Swiren: Just a moment. May I see that for a moment, please?

The Witness: Yes, sir.

Q. (By Mr. Walsh.) What was that job?

A. That was in the mens toilet. They had a large wash sink in there, and the man who ordered it thought that he was going to get nice, fancy drinking fountains in there. He wanted to know if he could get a new sink, and I says, "Put



in an order, and we will give you anything you want." There was no emergency about it. The toilets are there, and 2806 the sink is there, and it will last for fifty years.

Q. All right. Now, refer to the next job there, Respondent's Exhibit 30-E. What is that job?

A. This is a big job. "Change pulley on grinder in basement to run 1900 r. p. m." That is a machine that has been running down there for some time; somewhere in that building, for the last 25 years.

Q. Yes.

A. It has a motor, a direct motor connection. The motor and the pulley are the size that the wheel will run. You know you can only run an emery wheel according to the diameter. They have got kind of a wise stool pigeon down in there, and he decided maybe he would put in a little more speed. The actual r. p. m. of the wheel I think is 1825 right now.

Q. Yes.

Mr. Swiren: Just a moment. I suggest the remark about the "wise stool pigeon" go out.

The Witness: O. K. All it amounted to was to find another little pulley, and put on there, about a quarter of an inch bigger in diameter.

Q. (By Mr. Walsh.) In what you were asked to change, did you have to change the grinding wheel—

A. No, sir.

Q. —or the motor, or anything of that sort?

A. No, sir. This job here, I would have done it six 2807 different times if he had let me have the machine when I wanted it. I can't shut those machines down when they are running, you know.

Q. You never had a man available to do the work when the machine was not used?

A. When I had him available, I would send him over there, but they would be using it.

Q. Did you send a man over there?

A. Yes, sir, three or four; I sent them over three or four different times. It was just a case of putting a little bigger pulley on.

Q. And changing the r. p. m. from 1825 to 1900?

A. Yes, sir. The wheel that was on there ran 1900 when it was new, but it was wore down by that time.

Q. I see. Now, take the next one; what is the next one there?

A. Six braces or supports for water jackets. That is a little piece of metal, made out of about—a piece about a quarter by an eighth of an inch thick, and it turns off at the bottom, and all it amounts to is a little bracket. Now, we don't have no braces in there.

Q. No what?

A. (Continuing.) And I told Luther Henry to send the order up to Jack Welch, and get them made, because he makes them, and I don't make them. They have got a couple of bricks under there.

2808 Q. What exhibit is that?

A. 30-F.

Q. All right. How about Respondent's Exhibit 30-G?

A. That is a kind of random order: repair three steam lines, leaking badly.

Q. When did that order come out?

A. That is marked November 2nd.

Q. Were those steam lines all repaired?

A. Why, we repaired them steam lines I think on an average of about four times a week. Every time they turned off the steam—they had a habit of economy down there, you know, and they would shut off the steam, and cool off the system. This was on the fourth floor of building 5.

Q. Yes.

A. (Continuing.) When you shut down them steam lines, you get them cool, and then when you start up the steam again, why, they start expanding, and you can watch a steam line across the floor for a range of about 100 feet. Every time they would do that, they would crack one of those bents. We put in, I should judge—well, that was a regular standard job every winter, and it came along just on account of that habit of economy that they had.

Q. Do you know whether that job was done or not?

A. Well, I think—I don't know whether I done this or not, but I know I have done work on that same thing,  
2809 and it is a big long job.

Q. Now, during the time—or rather, during the fall of 1936, were you working any overtime?

A. Oh, yes, we worked plenty of overtime.

Q. When you worked overtime, did you have to fill out any report, or did you have to make any request on the superintendent, to work overtime?

A. On all overtime I had a certain little pad, that was just for overtime, and I would have to show on there the

name of the men, how many hours they worked, and what they done.

Mr. Walsh: I will ask the reporter to mark this paper Board's Exhibit No. 39 for identification.

(The document referred to was marked Board's Exhibit No. 39 for identification.)

Q. (By Mr. Walsh.) I hand you this paper which the reporter has just marked Board's Exhibit No. 39 for identification, which is entitled "Permit to work overtime," and ask you whether that is the paper that you had to fill out when you worked overtime.

A. I filled that out whenever I had a man work overtime, yes, sir.

Q. And whenever you worked overtime yourself, would you fill one of these out?

A. Well, no. My clock card would show when I worked overtime.

2810 Q. Did you work any overtime during the fall of 1936?

A. Quite a bit.

Q. And about how frequently would you work overtime, and for how long periods?

A. Well, sometimes we would work there night and day. In that plant I have worked as high as 38 hours in a stretch.

Q. 38 hours of overtime in a week?

A. No, in one shift.

Q. Oh, 38 hours of overtime in one shift.

A. Yes, sir. It all depended. It might be they would bring in a piece of equipment, or something like that; or if there was a breakdown, why, we would stay there until it was done.

Mr. Walsh: At this time I would like to offer Board's Exhibit No. 39 in evidence.

Mr. Swiren: May we see it, please.

The Witness: I signed that on the bottom there, and Mr. Anselm signed it also.

Mr. Walsh: The writing does not make any difference.

The Witness: No. That was for a sash, or window frame.

2811 Mr. Swiren: If the Examiner please, I do not know what pertinency a permit to work overtime has, to the issue in this case. There are some other interesting forms out at the plant, I imagine, but I do not see how they have anything to do with this issue.

Mr. Keele: I cannot see the relevancy of a blank. If there is any question about whether we have forms of the nature in the plant, and whether they are used, certainly we will be glad to admit that; but as to this particular form, which has some writing on it, but has nothing to do, so far as I can see, with this case—it has the words written on it, "1602 Hinman avenue," or "Human avenue," or something of that kind, and "picture frame 2 by 27." That is what is written on it. Now, unless it can be tied up with the proposition that he received a slip like this, or made out this particular slip, it certainly is not relevant.

Mr. Walsh: If the Examiner please, I do not contend that anything written in pencil on there is relevant to anything here, and I would like to have that excluded from the offer of the document.

Trial Examiner Dudley: Do counsel still object?

Mr. Swiren: Yes.

Trial Examiner Dudley: The objection is overruled, and the document may be admitted, that is, just the form itself.

2812 Mr. Walsh: Yes.

Trial Examiner Dudley: Not the writing.

(The document referred to was received in evidence and marked BOARD'S EXHIBIT NO. 39, Witness Holm.)

Mr. Walsh: You may inquire.

Mr. Keele: Let me have those exhibits, please.

### *Cross Examination.*

Q. (By Mr. Keele.) Mr. Holm, as I understand it, you stated that you never had seen a copy of that order with reference to the moving of the tantalum department to the west half of the tool room.

That is correct, is it?

A. No, not in that shape.

Q. I see.

A. I never seen that copy.

Q. Well, have you ever seen a copy, or have you ever seen—did you ever receive an order in which the words which appear here, appeared?

A. I got one on one of them pink slips, like you have there.

Q. In other words, this order,—or, the words that are in this order, appeared on that pink slip, did they?

A. On the pink ticket.

Q. Did that follow the same wording, as appears in this particular slip?

A. Well, it meant about the same.

2813 Q. Did you discuss that order—I believe you said you discussed it with somebody. With whom did you discuss it?

A. Well, I had to find out from the foreman where they wanted it. There was no print on that or nothing; and we had to get orders from somebody, as to where they wanted them machines.

Q. Meaning by that, that you did not know just exactly where they were to be set, as I understand it. That is correct, is it not?

A. Yes.

Q. Now, did you talk with Mr. Henry, or Mr. Anselm, about this job?

A. I don't know. I most likely talked to three or four different men on it.

Q. Of course, you talked to Welch, because it involved his department; and Howard Philips; that is right, is it not?

A. Well, it was Howard Philips, really.

Q. I see.

A. I think that is when he got there, about that time.

Q. Now, the instructions said that you were to have sufficient men to make that move over the week end. That is correct, is it not?

A. Yes.

Q. And, as I understand it, you did not have enough men?

A. Oh, yes, I did. I had it all running, as far as that is concerned; it was all running Monday morning.

2814 Q. Now, in other words, is it your contention, that this order was carried out as given?

A. On Monday morning he could use the welder, but he never used it. It was all set up temporary.

Q. Well, of course, if he did not use it, that was not your problem, was it?

A. Oh, no, if he didn't use it that wasn't my problem. I didn't care if he never used it.

Q. All your problem was, was to get the thing set up so that it could be used; that is correct, is it not?

A. Yes, and I set them up.

Q. And that you did?

A. Yes, sir.

Q. Is that correct?

A. I set them up, as far as their instructions went.

Q. Well—

A. Now, that job—that piece of paper that you have got there and that job are quite a bit different, if you go down there and look at the job. The job involves a lot of work.

Q. Well, I am not arguing the question with you at all, Mr. Holm.

A. Well—

Q. I have no doubt that it does.

A. Well, I just wanted to explain it.

Q. But does it say anything there about setting up  
2815 the machines temporarily, or was the order to simply set up the machines as a permanent proposition?

A. Why, at that time they knew it was going to be temporary. There was no power line in that building at all, not just then.

Q. Well, is it not a fact that some of the machines you set up temporarily, and some of them you did not set up at all?

A. They were all set up and running before I left the plant; they all were.

Q. Before you left, the whole job was completed, is that correct?

A. Not that day.

Q. Well—

A. That job wasn't finished, I don't really believe, until a month after that.

Q. But the order was to the effect that it should be finished over the week end, was it not?

A. Oh, yes; and I had orders down there to building buildings sometimes in twenty-four hours, but I never finished them.

Q. In other words, they were unreasonable requests to make on you, I take it; is that it?

A. Well, at the time they made them, they didn't mean them that way.

Q. Well, now, this order was unreasonable, in view of the equipment, and the condition, I take it, was it?

A. I finished that job out just the way it was sup-  
2816 posed to be, Monday morning.

Q. Now, let us not get into an argument, or into any speech making, Mr. Holm. Just answer the question.



A. I did.

Q. No, you have not answered the question. You said you thought the orders were unreasonable—

A. I didn't say I thought they were.

Q. I thought you said—

A. I knew they were.

Q. Oh. You knew that they were unreasonable?

A. Yes, sir.

Q. And you got a number of orders of that kind, where you thought they were unreasonable, did you?

A. Say, Mr., I was no magician.

Q. Well, now, wait a moment, Mr. Holm. I understand that, but just tell me now: You said you got a number of orders that you thought were unreasonable, did you not?

A. Oh, I got hundreds of them.

Q. Hundreds of them?

A. Yes.

Q. That were unreasonable?

A. To a certain extent, at least, they were.

Q. All right.

A. In the time limit.

Q. That is, in your opinion the request made of you  
2817 was one that could not reasonably be fulfilled, considering the conditions, and the equipment that you had; is that correct?

A. Well, the time limit was the only thing that was unreasonable about any of them.

Q. The time limit?

A. Yes.

Q. I see. In other words, they insisted, and it became their practice to insist, on jobs being done in less time than it was possible to do them, in your opinion; is that right?

A. No; they were just anxious to have them running; that was all.

Q. But I say, the request was such that you could not carry it out—

A. No.

Q. —as to the time limit?

A. I carried out every order that anybody gave me, for twenty years. I carried them all out, Mr.; don't worry about that.

Q. Well, that is what I am trying to find out, now, Mr. Holm. That is what I want to find out. The only unreasonable thing about the requests, as I understand it, was

the time limit in the requests, and as to that there were a number of them that were unreasonable? I think you said that; is that not right?

A. Well, that is what I said; according to the time.

Q. Yes.

A. (Continuing.) You can tear down a piece of 2818 equipment in an hour, but you can't put it up in any hour.

Q. Now, when you received one of those unreasonable orders, as you say they were, did you ever discuss with Mr. Anselm, or Mr. Henry, the fact that it was unreasonable?

A. I told him right straight out what he was going to get, and he always got it.

Q. In other words, if the order said, "This job is to be finished by Monday morning", and you figured that it could only be half finished, you said "I will have it half finished by Monday morning", did you?

A. I asked them what machines they wanted running Monday morning, and I would have them running.

Q. Suppose they wanted them all running, as in this case, then what?

A. In that case, they had them all running.

Q. I thought you said a little while ago that the job was not completed.

A. I said that they were hooked up temporary. Say, do you know the difference between temporary and permanent?

Q. Never mind what I know, Mr. Witness. You are answering the questions, now, or supposed to be.

The Witness: Let us get a dictionary, then.

Mr. Walsh: Take it easy.

Mr. Keele: All right.

Mr. Walsh: Take your time, Mr. Holm.

2819 Trial Examiner Dudley: Proceed.

Mr. Keele: Mr. Reporter, be sure that the record shows the remarks of the witness.

Q. (By Mr. Keele.) Now, this job that they were always bellyaching about, as I believe you described it: That had to do with insulation in the die polishing department; is that not right?

A. Yes, sir, just a little old shack up on that building.

Q. All right.

A. (Continuing) It was just a question of tacking up a few pieces of celotex on there.

Q. It was just a little old shack up there, is that right?

A. Yes, sir, worth about ten cents.

Q. Worth about ten cents?

A. Yes, sir.

Q. Well, then, there really was not anything important about doing that, was there?

A. Oh, yes, there was.

Q. Well—

A. But there was no emergency to it.

Q. I see. And the order said that there was no emergency to it, did it?

A. There wasn't no emergency on any of them.

Q. Well, I was just wondering. Did it say that there was no emergency to the job?

2820 A. They didn't need it; they didn't have to put that on. He knew he was going to get it when I got around to doing it.

Q. I see. In other words, when you got an order, you did the job when you got around to doing it; is that right?

A. Well, jobs like that.

Q. That is when you would do them, when you got around to doing them; is that correct?

A. Emergency jobs?

Q. Answer the question.

A. I done them right away.

Q. I did not ask you that. Just answer the question, please. These orders that you got, I say, you did them when you got around to doing them; is that right?

A. I done them when he let me have enough men to do them.

Q. And you told him that you did not have enough men to do these jobs, when he gave you the orders, did you not?

A. No, I didn't tell him everything.

Q. You did not tell him everything?

A. No.

Q. All right.

A. Why should I?

Q. If you did not have enough men, was it not your business to report to him that you did not have enough men to carry out those orders?

A. I did when I needed more men; I asked for them.

2821 Q. In other words, the only times when you found you needed more men to carry out an order, you asked for them; is that right?

A. Whenever I had a big job, why, I asked for more men, yes.

Q. I say, whenever you needed them; is that right?

A. Yes, sir.

Q. Now, at all other times, then, you did not need more men to carry out those orders, when you did not ask for them; is that correct?

A. I remember one time when I didn't need anybody in the plant; in other words, I was gang, boss, and all.

Q. I understand, Mr. Holm, but, now, just answer the question. Let us not go back 20 or 25 years. I am speaking of this plant. Whenever you needed more men, you called for them; is that correct?

A. Why, certainly.

Q. All right.

A. If I needed more men, I asked for them; certainly.

Q. All right. And the only time you did ask for them was when you needed them, was it?

A. (No answer.)

Q. (Continuing) So that when you did not ask for them, or in cases when you did not need more men to carry out an order, you did not ask for them; is that right?

A. As far as that particular job is concerned, I am 2822 telling you—

Q. No, no; I am talking generally, now. Answer the question.

A. Say, now, Mr. you are going so fast that I can't keep up with you. Ask you question again.

Mr. Keele: Read it, please.

(The question was read.)

The Witness: I don't know what that means.

Mr. Walsh: I believe I will have to object, if the Examiner please, that the question is a little bit involved.

Mr. Keele: All right. Maybe it is a little involved. I will reframe the question.

Q. (By Mr. Keele.) Whenever the job called for more men than you had available, you asked for more men; is that correct?

A. Whenever I got a big job, I used to go out and find out how fast they wanted it.

Q. Yes.

A. And if they wanted it real quick, why, I would ask them if I could have a few more men.

Q. Yes.

A. Well, he would put a time limit on it, and I would say, "Now listen. There is no sense putting on three or four men for a couple of weeks".

Q. Yes?

A. "Well," he says, "if you want to you can work 2823 a little overtime, as long as you get the job done".

Q. Yes. And how many of these jobs that are mentioned in these exhibits did you discuss with Mr. Anselm, with reference to the fact that there was an unreasonable time element involved, or that you did not have enough men; any of them?

A. I discussed every job that you ever saw on a piece of paper with him for twenty years.

Q. With Mr. Anselm?

A. Yes, sir.

Q. Every one of those, you discussed with him, then, did you?

A. If they were in a hurry.

Q. No, no. You said just a moment ago that you discussed every job with him.

A. I said—

Q. Now, do you want to change that answer, to jobs where they were in a hurry; that those were the ones you discussed with him?

A. The reason I discussed them with him was that he would have about five jobs and he would want them all in a row—or I should say, he would lump them, 1, 2, 3, 4, 5; and we would take them in rotation.

2824 Q. I see. Well, now, let us get back to the matter of the insulation. You say that was not important.

A. Which job?

Q. That insulation job in the die polishing department.

A. Well now, you have got the wrong idea about that. The word "important" to me, in a factory, when you are installing machinery—the importance usually is when you are producing a product. When you shut down power, that is an important job; but if it is tacking a picture on the wall, or putting a few pieces of celotex on the wall, that isn't an important job, because it isn't tying up production.

Q. And you used your own judgment as to what was important, and what was not important—

A. Why—

Q. —is that correct?

A. Most of the time he would let me use my own judgment.

Q. I see. Now, there were times when he gave you orders which were to be done by a certain time; that is correct, is it not?

A. Oh—

Q. How?

A. I have got lots of jobs off of him that were to be finished in such-and-such a time.

Q. And did you give those jobs to him finished by the specified time?

2825 A. I gave him every job that he asked for; I never failed him once.

Q. On time?

A. I never failed him yet.

Q. On time?

A. Yes, sir.

Q. You gave him all of his jobs on time?

A. Yes, sir.

Q. All right. So that whenever you got an order—let me get this straight on the record, now. Whenever you got an order specifying a certain time, you always got that job out in the time asked for; now, that is correct, is it?

A. Well, here is the way I gave it to him—

Q. Well now, just answer the question.

A. —if he wants a machine running—

Q. Now, just a moment. Let us make the speeches after a while, Mr. Witness. I want to know if that is a correct statement, that whenever he wanted a job done by a certain time, you got it done by that certain time.

Now, is that correct or not?

A. A certain part of the job.

Q. But not all of it?

A. The job—you are talking about a job, and I am talking about a piece of equipment. A job covers the whole floor.

Q. Well, let us not—

2826 A. (Continuing) The job you have reference to.

Q. Well, let us not have any argument about it. When I refer to a job, I mean by "job", the work that is called for in the order.

A. Well, some of them orders run into quite a lot of work.

Q. And they were unreasonable, were they not?

A. I never failed him on a job down there yet.

Q. Well now—

A. The way you call them unreasonable, yes, they were; they were unreasonable in the time limit.

Q. That is what I mean.



A. Yes.

Q. That part of the order was unreasonable.

A. Well, there is no harm in saying they were unreasonable.

Q. No.

A. And I would usually tell him so.

Q. You would?

A. Yes, of course.

Q. Frequently?

A. How?

Q. Did you tell him that frequently?

A. I worked with the man long enough to tell him that he was crazy. What the heck!

Q. And you thought he was, did you?

A. When I explained to him how long it was going  
2826 to take on the job, he would just admit that it couldn't be done.

Q. In other words, he was wrong a good many times, was he not?

A. Well—

Q. And you convinced him that he was.

A. No, he wasn't wrong. He would just write it on a piece of paper, and you can write something out in five minutes, and it may take you a month to finish it.

Q. But, I say, he was wrong a great many times, was he not in figuring the amount of time that he gave you to do a job?

A. Why, in his time limit, I suppose that most of the time he was wrong, nine times out of ten.

Q. I see. All right. Now, how many times did they belly-ache to you, as you call it, about this little insulation job?

A. Well—

Q. You said that they were always bellyaching—

Mr. Swiren: The skylight.

Q. (By Mr. Keele.) Or rather, the skylight job. I meant to say, skylight. I beg your pardon.

A. The skylight?

Q. Yes.

A. Did you go down to see that job?

Q. Now, just answer the questions, please, for the purpose of this record. I am questioning you.

A. O. K.

2828 Q. And you can question me after the hearing, if you wish to do so. Let us just keep away from making

speeches, and arguing, and it will make our procedure a little bit more orderly.

The Witness: Can I explain what that job was?

Mr. Keele: No, sir, not now. I have asked you a simple question, and I want you to answer it.

Trial Examiner Dudley: Answer the question, Mr. Holm.

Mr. Walsh: Just answer the question.

The Witness: What is the question?

Q. (By Mr. Keele.) How many times did they bellyache—

Mr. Walsh: Answer the question.

Q. (By Mr. Keele.) How many times did they bellyache to you about that skylight job?

A. Oh, maybe he mentioned it a couple of times, and asked me when I was going to complete it.

Q. Yes.

A. And I showed him why the job was not complete. That particularly job had a power line running through up there on top of the building, and before he could put them boards on there, we had to take that big power line and transfer it underneath the girder, and shut down the plant. The rest of the job didn't amount to nothing, but it meant shutting down the power,—

Q. Did you tell him—

2829 A. (Continuing)—when we got that big two-inch conduit out of there.

Q. Did you tell him about that?

A. Of course. He knew it.

Q. To whom did you tell that?

A. I told it to Henry, Luther Henry, and I showed it to Mr. Anselm. He seen it there.

Q. You did that when you got this order of October the 7th did you?

A. Why—

Q. (Continuing) Respondent's Exhibit 34, mentioned here as job No. 4, "Repair skylight in building 6." Did you tell him about that then?

A. Oh, it was mentioned long before I got that little ticket that you have got there.

Q. I see. Well, can you tell us why, on November the 23rd, a month and a half later, as shown by Respondent's Exhibit 32, the job had not yet been done?

A. Well, at that time we were busy. Now, this was—this building is complete. This here job that you have reference

to, is a complete building. The only time it is a little imperfect is in the wintertime, when the snow banks up there. The roof has been that way. I remember putting it on there, I think sixteen years ago. In the meantime, we got this here ball mill job, and we got this tantalum job, and we had a 2830 big job in the office, outside of the regular repairs; so we just let that job slide along. It wasn't no emergency.

Q. And you used your own judgment, in other words, as to whether or not to do the job immediately, or let it slide along.

A. No. He came around one day there, and I says, "Is it O. K.? I have got to pull the men off. Would it be O. K. to pull them off?"

Q. In other words, you explained to him why you had not done this job?

A. Why, of course, and he knew why it wasn't done.

Q. All right, but you did explain it to him, though, did you?

A. Why, sure.

Q. You told him that that was another one of those mistakes that he had made, did you?

A. He didn't have nothing to do with that.

Q. How?

A. He didn't put that pipe in there.

Q. I see. Well now, referring to this job in Respondent's Exhibit 30-A, that is mentioned in Respondent's Exhibit 30-A, that says: "The two west windows in Contact Department need attention. Either tighten up by caulking, or install a deflector inside, so as to force wind up toward ceiling. Girls are complaining of this location being too cold to work, while the center of the room is far too hot for comfort. This 2831 work to be done at once."

Now, you say that was just a little job, putting a little putty into the windows?

A. I say I never seen that piece of paper before, until I saw it here today.

Q. You never saw it?

A. No, sir. Them little pieces of paper are made out by different departments, different foremen in different departments, or different parts of the factory, and sent over to the office. Sometimes I get them that are date a week and two weeks old.

Q. In other words, that is another instance—

A. They don't come direct to me, but they go over to the office.

Q. That is another instance of managerial efficiency—or rather, inefficiency, is it?

A. Well, I don't know, but if I had got it—if I had been Mr. Anselm, and I had got it, I would have just throwed it into the wastebasket, and called me up, and said to put a little putty in there.

Q. I see.

A. I would know how to deal with it.

Q. Of course in this case, it was not a foreman's order, but this was Mr. Anselm's order, was it not?

A. Yes, sir.

2832 Q. And you are sure that you have never seen that?

A. I never seen it until I saw it here today.

Q. Now, you said—

A. I don't even know what the job is, that he is talking about.

Q. Well, did you not tell Mr. Walsh, who was examining you a while ago with reference to that, that it was about a half hour job, just putting a little putty into the windows?

A. I say, from the description here, it must be about a half an hour job to putty up a couple of windows.

Q. I see. And you are quite sure that you never received this?

A. No, I ain't see that before, I will tell you that. I never seen that piece of paper before.

Q. All right. Now, with reference to Respondent's Exhibit 30-B, which says, "Install new rubber ring in dry pipe valve in building 11.": You say that was not an emergency matter, and would not hurt anything in the summertime, the matter of water getting into the sprinkler system.

A. The only time that would be an emergency matter, would be if it happened to break.

Q. Well, the only reason, or the only thing that would cause it to break, would be freezing; is that not right?

A. Yes.

Q. So, being in the summertime, there was no emergency about it; that is correct, is it?

2833 A. There was no emergency on it, in the summertime, no, sir.

Q. I see.

A. The pipe is full of water half the time, in the summertime, anyway.

Q. I see. But, now, since this is dated November the 25th, that would change that somewhat, would it not?

A. That is the time I tried to repair it.

Q. I see.

A. But I couldn't repair it, if he wouldn't shut the system down.

Q. But I say, you told me that a little while ago, or you told Mr. Walsh that on direct, that it would not hurt anything, did you not?

A. It wouldn't hurt anything in the summertime. That is what I said.

Q. Yes, I know, but this was not in the summertime, was it?

A. No.

Q. So that does not apply to this situation, does it?

A. Why, yes it does; it applies the same thing. I can't repair that, if he won't shut it down.

Q. Do you consider that November the 25th is in the summertime?

A. No, it isn't.

Q. All right.

2834 A. But as far as the water that was in there was concerned—

Q. I say, do you consider that as being in the summertime?

A. No.

Q. I just want to get your idea on the record.

A. Oh, no.

Q. All right. So that the fact that it would not hurt anything, as you say, in the summertime, does not have any application to this order, having been given you in November, November the 25th; now, that is correct, is it not?

A. It wouldn't hurt anything in the wintertime either, as long as he said it was O. K.

Q. He said it was O. K., and that was all there was to it?

A. The man who had charge of it, he said it was O. K.; and I says, "All right. Let her go."

Q. And did you then return the order, with a statement to that effect?

A. No, sir. The ring is there yet.

Q. Well, then, will you tell us why you did not do that job.

A. Because he wouldn't give it to me.

Q. You mean Mr. Nelson would not give it to you?

A. Nelson shuts off the water out in the street. When you

repair that, when you fix the sprinkler, he has got charge of that, because it is a very particular job, to clean it out. Every time you shut the system off, and drain it, there is mud, slush, and a little scale comes down there.

2835 Q. I see.

A. And he has to take and wash that all out, and he had to put that little valve back there just perfect, because if he has got a little piece of scale under there, and the air is in there, and the water is in there, if there is one little leak there, why, out goes the air and in comes the water.

Q. I see.

A. (Continuing) Well, he took that out, and cleaned it out after that order went through.

Q. I see.

A. And I asked him to different times; I sent a steam-fitter over there; I says, "Go over there and see how it is holding out;" and Nelson says, "It is holding out fine. There is no use repairing it just because a little air might run off, from only a little piece of scale in there." That is hard to clean out, of course. It is a big job, to clean it out properly.

Q. Well now, let us refer to Respondent's Exhibit 30-C, referring to putting a partition in the basement between the cleaning unit and the centerless grinder.

A. Yes.

Q. Now, you said that was just a little partition about sixteen feet long, did you not?

A. Yes.

Q. That little job down there.

2836 A. That is all it was.

Q. There wasn't any emergency about it, was there?

A. There wasn't any emergency about it at all, no, sir. That has been running for over one year.

Q. I see. And that order was given you on September the 4th, 1936; is that correct?

A. Yes, sir.

Q. By February the 26th, 1937, you had not gotten around to doing that job yet; is that correct?

A. February 17th?

Q. What?

A. That job had been done before spring. If you will notice there—

Q. Well, it was not done, though, up to February the 17th, 1937, was it?



A. That is what we call a winter job, an inside job.

Q. I see. And would you consider the months of January and February as being part of the winter?

2837 A. Well, that is still up there. There wasn't any—

Q. Mr. Holm, aside from the speeches, the point is, it was not done on February 17th, was it?

A. Of course, it wasn't done.

Q. All right. Now, the purpose of putting it up there was to prevent fumes from affecting that machinery, was it not,—fumes from the acid?

A. (No answer.)

Q. That is correct, is it not?

A. They have been using acid in that corner for the last ten years.

Q. I understand that, Mr. Holm, but let me suggest to you again, we will get along a whole lot faster if you will just answer my questions, instead of trying to reveal your knowledge of what was going on in the Fansteel Company's plant during your long service there,—and I am impressed with it; but let us answer the questions directly if we can.

Now, I say, the purpose of that was to prevent the fumes from the acid from affecting the machinery; was that not it?

A. Well—

Q. Is that not what you told us a while ago?

A. It was one of the reasons.

Q. Yes.

A. I should judge.

Q. All right. So the more quickly that partition was  
2838 put up, the more quickly the action of the acid, or fumes, would be stopped; that is correct, is it not?

A. It wouldn't make no difference.

Q. It would not make any difference?

A. They had the door open half the time, anyway.

Q. I see. In other words, that was another foolish idea of Mr. Anselm's, was it?

A. No, it wasn't. It was all right.

Q. It was all right?

A. The idea was all right.

Q. If they do not open the door.

A. If he had wanted the job to be done in a hurry, it would have been done, but we had about five hundred other jobs at that time, and we didn't pay no attention to a little job like that.

Q. I see. Thank you.

A. (Continuing) That was just simply like making a packing box.

Q. I see. All right. Now, we come to the men's toilet. You said that they were putting in some nice fancy drinking fountains there, as I recall your language; is that what you said?

A. Oh, yes, they put in some dandies.

Q. Some dandy drinking fountains?

A. Yes, sir, and a wash-stand.

2839 Q. Mr. Holm, do you have any antipathy or hostility toward drinking fountains or wash-stands?

A. Yes, I have, the way them boobs put them in, in building number five.

Q. Who were the boobs who put those in?

A. Go down and look at them, the way they put them in there. They installed a nice cool water system there, and they put one in on one floor, and they thought they were going to cool it in the whole building from that.

Q. I have not yet gotten who the boobs were, who put that in building 5.

A. They hired some men on the outside. When they came along with their wash-stand, and drinking fountains, and one thing and another, they bought those units, and a nice thermostatic unit where when you walked up to it and opened it, you got a nice cool drink. Well, they put one of those on the third floor, and then they brought this pipe clean down to the first floor, and thought they were going to get nice cool water down on the first floor, out of that little unit.

Q. That was silly, was it not?

A. No, it was just what I would call a bum job. I didn't do it. I told them they were nuts.

Q. I see. So the whole job, in that instance, was wrong, was it not?

A. Somebody was to blame.

2840 Q. It was another mistake?

A. Yes.

Q. They did not do—

A. Well, they weren't mistaken; they weren't even mechanics.

Q. They did not know?

A. No, they didn't know.

Q. All right.

A. I didn't have anything to do with the drinking fountains. But that is how that little order came through there, on account of the drinking fountains.

Q. All right. Referring now to Respondent's Exhibit 30-D: "Put in larger wash bowl in toilet in building 5, first floor. Remove one toilet and put urinal in this so as to make larger space for washing hands."

Now, there was not any emergency about that job, I take it, was there?

A. No. That couldn't be an emergency.

Q. All right.

A. Because they had been using it there for about the last ten years.

Q. Now—

A. (Continuing.) Only they wanted a pretty outfit, like they had up stairs; that was all.

Q. They wanted to improve the place?

2841 A. Yes, to modernize it.

Q. To modernize it.

A. Yes, sir.

Q. Are you opposed to that, Mr. Holm?

A. Oh, no, no.

Q. But that was one of the things that the company wanted done, was it not?

A. There wasn't any sense in it.

Q. Well, answer the question.

A. I am opposed to it in one way, I really am opposed to it, yes, sir.

Q. How is that?

A. If they had went out and paid their men a couple of nickels, instead of spending thousands of dollars for that nutty stuff, they wouldn't have had no trouble at all. That is the reason I am opposed to it.

Q. And that is the reason why you did not put it in, I take it; is that correct?

A. Well, no. The reason I didn't put it in was because we had about four hundred other jobs. That job was just one of those jobs that we do when we get any time.

Q. Is there an understanding about that?

A. Yes, sir, there always has been, that production comes first. That is the only order I ever had.

Q. This job, by the way, was not finished on Feb-  
2842 ruary the 17th, was it?

A. I think you have got one there that says the job was finished, but that job wasn't finished.

Q. All right. That is what I want to know.

A. (Continuing.) The one that has got the ink writing on there.

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Q. Well, now, let us go on to Respondent's Exhibit 30-E—

A. Why say it is done when it isn't done?

Q. Now, who was this wise stool pigeon, as you described him, who wanted the r. p. m. speeded up from 1825 to 1900?

A. Well, his name is Frank Mack.

Q. Frank Mack?

A. Yes, sir.

Q. Is he an employe of the company?

A. Why, I believe—I think he was a kind of straw boss on the side.

Q. Well, you have characterized him here as a wise stool pigeon.

A. I did.

Q. I wonder if you will just explain to the Trial Examiner what you meant by that?

A. Well, I always figured that he was that. I can tell by looking at a man what he is, and if I work with him for about a week I know what he is.

Q. In other words, you are an expert in personnel work; is that what we are to understand?

A. To a certain extent with the men I work with, yes, sir. It don't take a man long to know.

Q. And in your opinion Frank Mack is a stool pigeon, and a wise one; is that right?

A. I knew he was. I didn't think he was; I knew he was.

Q. I see. Well, now, how did you know that Frank Mack was a wise stool pigeon?

A. Well, I have got a couple of eyes that can just keep on looking, and he is just simply a nice little straw boss, but he made more trips over to that office I believe than any other man in the plant, and he had no more business over there—not half as much as I did. He was just a little production man in the basement.

Q. In other words, you are sure from that, that he was a stool pigeon?

A. Oh, I knew he was.

Q. Well, now, what do you mean by a stool pigeon? Will you just explain that?

A. Well, that is what I call a piece of humanity that can't go out and make a living in his trade, and he has got to suck two ways.

Q. Now, tell us what you mean by that, that he had to suck two ways?

A. Well, he has got to suck around the man he is  
2844 working for, his foreman; and then the first thing you  
know he slips around and gets hold of that man's fore-  
man.

Q. I see. And Mack did that?

A. Oh, plenty.

Q. I take it that you do not like Mr. Mack.

A. Oh, I had no grudge against him.

Q. You did not have any grudge?

A. No.

Q. The fact that he was a wise stool pigeon, as you have  
characterized him—

A. Oh, that is just my opinion. My opinion is a certain  
way. This is a free country, you know, and I have got a  
right to my opinion.

Q. You do not like him, do you?

A. I never had nothing to do with him.

Q. Did that fact, the fact that he had made that recom-  
mendation, have anything to do with the fact that you did  
not do this job between the 1st day of September and the  
17th day of February, 1937?

A. I will tell you why, Mister. That little job that you  
have reference to is a little grinding wheel that they have  
been using for about nineteen or twenty years, the same  
process that they are using today. He asked me if it would  
make any difference, to make it go faster. I says, "The  
wheel guarantees so much r. p. m., and if we can find  
2845 another pulley, we will put it on". But you aren't  
allowed to run an emery wheel, except up to the limit  
that is printed on the wheel, and I don't set up nutty ma-  
chinery.

Q. And speeding that up, would in your opinion have made  
it nutty machinery; is that right?

A. Well, if it happened to kill a man, they would want to  
know who speeded it up.

Q. But if you had gotten an order to do that, that would  
have relieved you from any responsibility, would it not?

A. That order wouldn't mean nothing.

Q. It would not?

A. I wouldn't want to kill a man, just because he put it  
on, that I should kill a man, would I?

Q. Well, I do not know. Would you?

A. No.

Q. I see. Well, I am glad to know that. In other words,

you felt that this order was just not in line with good practice, and safe practice, with reference to the speeding up of an emery wheel; is that right?

A. All that really amounts to was a little experimental stuff. He didn't know what it was going to do if I made it go a little faster, and I didn't know what was going to happen. He didn't know, neither did I. I says, "We will have to get a pulley that maybe will be a quarter of an inch larger in diameter"—because you can't go over the limit shown 2846 on the wheel. All emery wheels have got their r. p. m. stamped right on them.

Q. And if they run faster than that they are apt to explode from centrifugal force; is that right?

A. They go right through a man. Did you ever see one go right through a man, right through his guts?

Q. No, I have never had that dubious pleasure.

A. Well, it is too bad. You ought to be around the plant once in a while.

Mr. Walsh: Let us not get into any argument.

Mr. Keele: That is all right. I do not have the slightest objection to the remarks of the witness.

Mr. Walsh: I am just cautioning the witness.

Q. (By Mr. Keele.) Now, referring to the order set forth in Respondent's Exhibit 30-F: "Six braces or supports for water jackets of furnaces."

Now, you say that those were just small pieces of metal; is that right?

A. Yes.

Q. You did not have those?

A. No, I didn't make them; the tool room makes them.

Q. All right. And did you ask anybody—did you ask Mr. Dow to have those braces made for you, or did you go to the tool room and ask that they be made?

A. Those pieces of metal I think have been in those 2847 furnaces for over three months. I can't prove it, but

I am pretty sure that they were, because the man who repairs the furnaces—I told him to go up in the tool room, and get them, where they belong. They are just three little strips, that is all they are, to hold up an end. He used a couple of bricks in place of them. We haven't got no blacksmith shop in the millwright departemnt.

Q. I see. And did you take the proper steps to get them?

A. Oh, yes.

Q. To get those braces made?



A. Yes, sir. I told him to go and get them.

Q. You told who to go and get them?

A. The man who used them.

Q. Well, who was that? The order is signed by Mr. Dow.

Who did you tell to go and get them?

A. Harold Stricklen.

Q. Stricklen?

A. Yes, sir, he is the man who used them.

Q. That is not Stricklen's department, though, is it?

A. Stricklen is the man who wanted those straps.

Q. I see.

A. Because he is the man who uses them.

Q. And where did he go to get them?

A. He went up to the tool room to get them.

Q. I see.

2848 A. That is where they make them. That is where the made them before.

Q. I see. And that is the reason why this job was not done, is it?

A. I just didn't pay no more attention to it, because it wasn't my job.

Trial Examiner Dudley: Off the record a moment, Mr. Reporter

(Discussion outside the record.)

Q. (By Mr. Keele.) I take it, Mr. Holm, that your attitude in the plant was about the same as you have indicated here; is that correct?

A. What do you mean?

Q. Well, I am just asking you the question, if the attitude you had during the course of your work in the plant, was the same as the attitude that you have shown here on the witness stand, in your answers.

You are not nervous today, or upset, or anything, are you? Just answer that yes or no, please.

A. Wouldn't you get tough if somebody shot you a bunch of scrap like you have got there?

Q. Well—

Mr. Walsh: Just answer the question, Mr. Holm.

The Witness: I am trying to answer the question as nearly as I know how. I am not telling you a lie, Mister. You  
2849 don't need to worry. I am not going to tell you a lie

Mr. Keele: I never thought for a moment you were, Mr. Holm.

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Q. (By Trial Examiner Dudley.) Can you answer the question yes or no, Mr. Holm?

A. What is the question?

Q. The question is, are you nervous today, or not?

A. Not any more than I would be any other day, no, sir.

Mr. Keele: That is all.

*Redirect Examination.*

Q. (By Mr. Walsh.) Mr. Holm, you are no more nervous than you would be under a searching cross-examination by counsel, I take it?

A. No. That is, I am nervous, to a certain extent, yes, sir, because—

Q. I mean you are not used to being on the witness stand, are you?

A. No, sir, I am not. It isn't very often that I get up here, and its a good thing I don't.

Mr. Walsh: I think that is all.

2850

*Recross Examination.*

Q. (By Mr. Keele.) Well now, Mr. Holm, jut let me get straight on this. I have not been abusive toward you, or unfair toward you in any of my questions. have I?

A. Oh, no, you are just trying to earn your dough, Mister, the same as I am trying to earn mine.

Mr. Keele: All right.

Trial Examiner Dudley: I think the record speaks for itself. That is sufficient.

Mr. Walsh: Nothing further.

Mr. Swiren: I would say it is more than enough.

Mr. Keele: I have nothing further.

(Witness excused.)

Mr. Walsh: The extent to which the cross-examination has gone, if the Examiner please, will not permit me to close my case tonight.

Trial Examiner Dudley: We will take a short recess.

(Whereupon a short recess was taken.)

Trial Examiner Dudley: The hearing will come to order.

Mr. Walsh: Frances Fellens.

FRANCES FELLENS, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Frances Fellens?

2851 A. Yes, sir.

Q. You have been previously sworn, and testified in this proceeding?

A. Yes, sir.

Q. You worked in the Contact Department?

A. Yes, sir.

Q. What was your job?

A. Well, I set up contact points on breaker-arms mostly.

Q. How long did you work in that department?

A. Two years.

Q. During that period of time did Mary Aitchison ever complain about the quality of your work?

A. Who?

Mr. Swiren: You mean Mary Atkinson.

A. No, sir.

Mr. Walsh: Oh, pardon me.

Q. (By Mr. Walsh.) Did Mary Atkinson ever complain about the quality of your work?

A. It was Elsie Aigner.

Q. Well now, let us get started all over again. You did not work for Mary Atkinson at all, did you?

A. No, sir.

Q. You worked for Elsie Aigner, is that right?

A. Yes, sir.

2852 Q. All right. Now, during the time that you were working there, did you work on piecework most of the time?

A. Mostly.

Q. Did she every try you out on heavy work in recent months, say?

A. Well, when—like if we didn't have breaker-arms to work on, she would give me special jobs, and my job would only last maybe an hour, or something like that.

Q. In other words, jobs on which you would not have time enough to work up any speed.

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A. No, sir. You couldn't get much of a chance to work up on the other job.

Q. Do you know whether your production on a piecework basis was as good as that of the other girls in the department?

A. As far as I know, it was.

Q. Did she ever complain to you about the character of the work you were doing?

A. No, sir.

Q. I will ask you whether or not you ever agitated any trouble around the department?

A. No, sir.

Q. Or anything like that.

A. No, sir, not that I know of. I don't know of any trouble that I ever caused.

Q. Did Elsie know that you were a member of the union?

A. I kind of think she did, yes.

2853 Q. Did you ever talk with her about it?

A. No, sir, I didn't. At the time when they had the notice around, that they wanted to start a company union, and I hesitated about signing my name to it—

Q. Yes?

A. (Continuing). She seemed—well, she made some kind of a remark, so I thought she knew I belonged to the other union.

Q. About how often would you get those special jobs that you would work at for an hour or so?

A. Oh, not very often. I worked on breaker-arms just about all the time I was there.

Mr. Walsh: You may examine.

Mr. Keele: No cross.

Trial Examiner Dudley: That is all; thank you very much. (Witness excused.)

Mr. Walsh: Marguerite Seifert.

MARGUERITE SEIFERT, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Marguerite Seifert?

A. Yes, sir.

Q. You have been previously sworn, and testified in this proceeding?

2854 A. Yes, sir.

Q. I believe you worked for Mary Atkinson, did you?

A. Yes, sir.

Q. What did you do?

A. Well, we did inspecting of disks.

Q. I will ask you whether Mary Atkinson ever complained to you about the manner in which you did your work.

A. No, sir, she never complained to me about it.

Q. Did she ever say anything to you about it?

A. No, sir, only there was one night we were working overtime, and she was telling us we couldn't work overtime any more; and there was quite a bit of work in there, so we wanted to know why it was; and she said that they had complaints coming over about two of the girls who were falling down, or not cooperating enough, in what they were supposed to put out; and one was Mary Lacey, who went back to work.

Q. One was Mary Lacey, who went back to work after the trouble?

A. Yes, sir.

Q. I will ask you whether she was a better worker than you were.

A. Well, I don't know, only Mary complained about her a lot of times.

Q. About Mary Lacey?

A. Yes.

2855 Q. But she took her back to work?

A. Yes, sir.

Q. You have always been on an hourly basis, have you?

A. Yes, sir, I have always been on an hourly basis.

Mr. Walsh: You may inquire.

*Cross-Examination.*

Q. (By Mr. Keele.) Miss Seifert—or is it Mrs.?

A. Miss.

Q. Miss Seifert, were you here yesterday afternoon?

A. No, I wasn't.

Q. When Mr. White was testifying?

A. No.

Q. Did you hear Mr. White—or rather, pardon me, Jimmy Brown.

A. No, I didn't.

Q. All right. Did you hear Jimmy Brown testify?

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A. No, I didn't, but he was the one that got me the job down there.

Q. How is that?

A. He got me the job down there.

Q. He got you the job down at Fansteel?

A. Yes, he did.

Q. He is friendly toward you in other words, is he not?

A. Well, I don't know.

Q. Well, I mean, you wanted that job down there,  
2856 did you not, when he got it for you?

A. Yes. I asked him about a job, and he says he would see if he could get me on.

Q. He was the one that got you the job?

A. Yes, sir.

Q. That is right, is it?

A. Yes, sir.

Q. And you have not had any quarrel with him since, have you?

A. No, sir.

Q. So that he would have no reason to want to hurt you in any way in his testimony, would he?

A. Not that I know of.

Mr. Keele: No. That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: That is all; thank you.

(Witness excused.)

Mr. Walsh: If the Examiner please, I move that the hearing adjourn at this time until tomorrow morning.

Trial Examiner Dudley: We will adjourn at this time until tomorrow morning at 10 o'clock.

(Whereupon, at 4:45 P. M., Thursday, June 24, 1937, adjourned until Friday, June 25th, 1937, at 10 o'clock, A. M., in Room No. 4, Post Office Building, Waukegan, Illinois.)



*Proceedings Before Natl. Labor Relations Board. 1481*

2860 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIII-C-80) • •

Room 4, United States Post Office,  
Waukegan, Illinois.  
Friday, June 25, 1937.

The above-entitled matter came on for further hearing, at  
9:30 o'clock-A. M., pursuant to adjournment.

Before:

Tilford E. Dudley, Trial Examiner.

Appearances:

William R. Walsh, Regional Attorney, on behalf of the  
National Labor Relations Board.

Levinson, Becker, Peebles & Swiren, Suite 2525, One  
North La Salle Street, Chicago, Illinois, by

Max Swiren, Harold M. Keele, and Sidney H. Block,  
Waukegan, Illinois, on behalf of Fansteel Metal-  
lurgical Corporation.

Lester Collins, Waukegan, Illinois, on behalf of Lodge  
66, Amalgamated Association of Iron, Steel and Tin  
Workers of North America.

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2861 Trial Examiner Dudley: I will call the hearing to  
order.

Mr. Swiren: I want to state for the record that I have  
delivered to the Examiner a memorandum giving the in-  
formation he requested with respect to the number of em-  
ployees not working on February 17th, who were hired on  
the reopening of the plant.

Mr. Walsh: Do you want this introduced in evidence?

Trial Examiner Dudley: Yes. Let us put it in.

Mr. Walsh: I will offer it in evidence.

Mr. Swiren: Let us have it marked.

Mr. Walsh: That will be Board's Exhibit No. 40.

(The document referred to was thereupon marked Board's  
Exhibit No. 40 for identification.)

Mr. Swiren: We object to the admission of Board's Ex-

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hibit No. 40 on the ground it has no materiality to the issues in this case.

Trial Examiner Dudley: You do not object to it on the ground of accuracy?

Mr. Swiren: What is that?

Trial Examiner Dudley: You do not object to it on the ground of accuracy?

Mr. Swiren: It is accurate.

Trial Examiner Dudley: It may be admitted.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 40.)

2862 Mr. Walsh: This is a renewal of your application. Has it been introduced?

Mr. Swiren: We presented our renewal of application to the Examiner.

Mr. Walsh: If you are relying on it as error, it has to be in the record.

Mr. Swiren: No pleadings have to be in the record.

Mr. Walsh: Yes. They have to be in the record in this proceeding, in order to take advantage of error, if any.

Mr. Swiren: All right. We will offer it as a Respondent's Exhibit.

Mr. Walsh: No. It will be offered as a Board's Exhibit.

Mr. Swiren: All right.

Mr. Walsh: I offer this as Board's Exhibit 1-P, if the Examiner please.

Trial Examiner Dudley: It may be admitted.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT 1-P.)

Mr. Swiren: I ask leave of the Examiner to recall Mr. Kondrath for further cross-examination along the line of the subject matter of yesterday's cross-examination, some additional information with respect to that subject matter having reached me since then.

Mr. Walsh: The subject matter of what?

Mr. Swiren: His testimony yesterday.

2863 Mr. Walsh: Kondrath's testimony?

Mr. Swiren: Yes.

Mr. Walsh: All right. Take the stand, Mr. Kondrath.

JOHN A. KONDRATH, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Cross-Examination (Continued).*

Q. (By M. Swiren.) Mr. Kondrath, you testified yesterday either late in August or beginning in September you examined and counted the time clock cards in buildings 3 and 5, is that right?

A. That is correct.

Q. Can you tell us now whether you recall whether it was the set of cards for the last half of August, or the set of cards for the first half of September that you counted?

A. I couldn't recall that.

Q. Look at this batch of cards I hand you for the half month ending September 15th, 1936, and see if those are the cards you look at.

A. Well, now, the way I counted them, they were in the rack, and I counted one, two, three, four, and so forth. That is the only way I can tell you. I didn't look at the cards.

Q. You did not look at the cards?

A. No, I did not take them out and examine them or anything.

Q. The date is right up on top, is it not?

2864 A. It would be if it faces this way (indicating).

Q. So, you do not know whether it was the August cards you looked at or the September cards?

A. No. I wouldn't know whether it was August or September.

Q. If I told you that the number of cards in the rack on September 10th, 1936 was 206—or rather, in these two racks—would you say I was wrong?

A. In September?

Q. On September 10th.

A. Well, on September 10th it might have been.

Q. It might have been 206?

A. It might have been.

Q. If it were about three or four more than on September 21st, you would not say I was wrong, would you?

A. No.

Q. You did not count the cards on those two dates?

A. No. I only counted the cards the one time.

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Q. You do not know whether that was the first part of September or the last part of August?

A. I really don't remember.

Q. Then, you took 20 people off as people that you regarded as foremen, is that right?

A. Yes.

Q. You took all of the people off that you found on the list, who were authorized to requisition supplies, is that right?

2865 A. No, I didn't.

Q. You did not take them?

A. That came out later. When I counted the cards—whether it was before or later, I don't remember.

Q. The list came out later?

A. I don't remember that. It has been quite a long time ago. All I know is I counted the cards in both racks on both clocks and the total amount was 181.

In my knowledge, thinking who were foremen at that time, and I knew who were giving orders in the shop, I deducted them from the total amount of the cards.

Q. You told us yesterday that you determined who were foremen by looking at the list posted in building 9 and building 6.

A. Building 6, in the stock room.

Q. Mr. Streed had posted a notice there as to who was entitled to requisition supplies, had he not?

A. That is correct.

Q. Those people are the people you deducted, is that right?

A. Well, I really didn't think of that particular list at that time. As I named off the names yesterday, that is how I took it, my knowledge—I knew who were bosses, considered bosses.

Q. I understood yesterday that you got the names of the foremen from the list that was posted in building 6.

A. I said I have seen the list on the window of the 2866 stock room, but I didn't say I deducted them particular people. Some I did.

Q. And if you said yesterday, if the record were to show that you said you deducted the names of those who appeared on the list, then your testimony was in error, is that right?

Your testimony was in error, if that is what you said?

A. I didn't testify that I took all the names off that list, that particular notice. To my knowledge, I knew the foremen in the plant. I don't believe I took Frank Mack at the time.

Q. He is not a foreman. He is a straw boss.

A. He may be. I don't know what he is.

Q. So you did not include him?

A. I included those people I named yesterday.

Q. Art Holm said he was a straw boss, but you said you did not consider him as a foreman. Did you include him, or did you not?

A. I did include Art Holm as a boss, because he was a boss as far as I knew.

Q. How about Frank Mack?

A. I don't believe I included him.

Q. You did not include him?

A. I included Jimmy White, and people that I knew for a long time, that have been giving orders in certain departments.

Q. You do not know whether they had a right to hire and fire, or whether they were on an hourly basis or a  
2867 monthly basis; anybody you thought was giving orders, you deducted?

A. Yes. I considered them as bosses.

Q. You considered those people as bosses and you deducted them?

A. Absolutely.

Q. You did not ask anyone whether they were given any authority to hire or fire, or whether they were regarded as foremen by the Company?

A. No, I didn't, because as far as hiring and firing, I don't know who was doing it. Most of the time it was done by the superintendent, or from the office more or less.

It wasn't done by the men, the foremen in the plant.

Q. You do not know which foremen did have the power to hire and fire, at any rate, do you?

A. No.

Q. Or, which bosses, as you put it?

A. Yes.

Mr. Swiren: That is all.

Mr. Walsh: Just a moment.

*Redirect Examination.*

Q. (By Mr. Walsh.) At any of the meetings at which the negotiating committee talked with Mr. Anselm, on September 10th, September 21st or February 17th, did Mr. Anselm ever ask you to prove whether you represented a majority of the men in the plant?

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2868 A. No, he didn't.

Q. He never furnished you with a payroll list of the company so you could check to find out whether you represented a majority, did he?

A. No, sir.

Mr. Walsh: That is all.

Mr. Swiren: Just a moment.

*Recross Examination.*

Q. (By Mr. Swiren.) As a matter of fact, at those conferences you did not discuss how many members you had or how many employees there were in the plant.

That was not a subject of discussion, was it?

A. There were some things said about it. It wasn't really about the exact total of employees, or to make us prove we had a majority, but as far as we knew—

Q. Just a second. I do not want to know what you knew. What was said at those conferences? You did not say anything about that at the conferences, did you? That is what I am talking about. He did not say anything to you about it, did he?

A. I believe the first time when we went in, in July, Mr. Aitchison had asked me—

Q. No; never mind. I am talking about September.

A. September 10th?

Q. Yes.

2869 A. I don't believe there was anything mentioned about the majority, but I imagine they probably knew we did.

Mr. Swiren: I do not want your imagination. I move that the imagination of the witness be stricken from the record.

Trial Examiner Dudley: Let it stand, since you have it in.

Q. (By Mr. Swiren.) You did not say anything to Anselm, and Anselm did not say anything to you—that is what I am talking about—at that conference?

A. About a majority—

Q. Yes.

A. —of the membership?

Q. Yes. That was not talked about, was it?

A. Well, Mr. Anselm asked me at the time, on September 10th, what would I think if he would get 40 or 50 members out of my union—



Q. No, no. That is a simple question, and I want a simple answer.

Mr. Swiren: I do not think you understood my question. Read the question, Mr. Reporter.

(The question was read.)

Q. (By Mr. Swiren.) (Continuing.) About the question of majority; that was not talked about either by you or by Mr. Anselm, was it?

A. Well, I don't remember making any particular statement about having a majority or minority.

2870 Mr. Swiren: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Mr. Walsh: Mr. Du Bois.

RAYMOND E. DU BOIS, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) State your full name, please.

A. Raymond E. Du Bois.

Q. You have been previously sworn and have testified here before have you not, Mr. Du Bois?

A. I have.

Q. I believe while you were employed at Fansteel, the latter part of your service was under Mr. Groll, is that right?

A. Yes.

Q. Mr. Groll testified here the other day.

A. Yes.

Q. I would like to ask you if Mr. Groll knew whether you were a member of lodge 66.

A. He must have, because I told him.

Q. Did you talk to him about it from time to time?

A. Oh, yes.

Q. Did you have any connection—withdraw that.

2871 I will ask you if you were steward in the tool room.

A. I was.

Q. You were the union steward in the tool room, is that right?

A. Yes, sir.

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Q. In connection with that work did you from time to time have an opportunity to talk to Mr. Groll about various things in the department?

A. Sometimes for an hour, or an hour and a half at a time.

Q. He would come to you, would he, and talk with you, and discuss these matters?

A. Yes, he would.

Q. What would the discussion be about?

A. Well, he felt that the fellows in there were laying down on the job, and to try to cooperate with him I would tell him, "Mr. Groll, if you would let these fellows do these things to the best of their ability and knowledge from the past, probably we could get together and help you out." But he thought we was being stubborn, that is all, and wouldn't cooperate.

Q. Had he had any previous experience in the working of tungsten or molybdenum or any of the other metals you were working with?

Mr. Swiren: That is objected to unless this witness was with him all of his life. I do not know how he could tell.

2872 Trial Examiner Dudley: He may answer if he knows.

The Witness: The only way I would know would be what he said, that he was a tool maker.

Q. (By Mr. Walsh.) Did he ever say he had had experience in these metals?

A. No, he didn't.

Q. Did he ever say he had never had any experience in these metals?

A. Well, not that I recollect directly, no.

Q. Did you at any time talk with Mr. Anselm about Mr. Groll?

A. I did.

Q. Tell us what that talk was about.

Mr. Swiren: Fix the time and place, if you can.

Q. (By Mr. Walsh.) Tell us about when it was and where it was, what was said by you and what was said by Mr. Anselm.

A. Truthfully, I can't say the time, because I don't recollect it.

Q. Well, it was some time in the fall of 1936; it must have been after November, 1936?

A. Yes, it was.

Q. It was after November 16th, 1936, and it was before February 17th, 1937, was it not?

A. It was.

Q. Some time during that period you did talk with Mr. Anselm about Mr. Groll, is that right?

2873 A. I did.

Q. All right. Tell us just what the conversation was about.

A. There was one time that Mr. Groll came to me, and we had had tongue lashings between us, arguments of one description and another. At this particular time he came to me, and he says, "What are you doing there?" Well, Howard Philips had given me the job—

Q. Howard Philips was who?

A. He was boss in the tantalum department prior to Jack Welch.

Q. I see.

A. That is before Mr. Welch took the job as foreman back in the tantalum department.

Q. Go ahead.

A. At this time Howard Philips was supposed to be a mechanical engineer, or something of that title. I don't know just what the title was.

Well, they wanted some new pulmotors made for downstairs. These machines are machines that are made to pull this tungsten rod through the furnace, as they anneal and swage it.

They gave me a description of the roller, which was taken off a pattern of one of the old ones, only they told me they wanted the rollers made larger this time, so they wouldn't have to revolve so fast, and it would pull the rod a little bit faster, in order to speed up production.

2874 I started to make it. He came over to me and says, "What are you doing?" I says, "Well, I am doing this job you wanted me to do for Mr. Philips." He asked me about blueprints. Well, one thing led on another, and I told him, "Mr. Groll, if you want me to work with blueprints, it is your job to get them."

Well, it made him sore. I told him I couldn't help it, that I was trying to do what they wanted me to do to the best of my ability. One thing led on another, and I went over to Mr. Anselm to offer to quit, but I thought that was what they wanted me to do; so I just didn't quit.

I just told Mr. Anselm the circumstances in the tool room, the way things was carried out, and the way Mr. Groll was acting. We couldn't cooperate with him, because he wouldn't

give us an opportunity. It was just getting worse for us instead of better, and worse for the company.

So Mr. Anselm did not give me very much credit for coming over, I suppose, because he thought I wanted to be a stool pigeon, or something like that, and tell him the troubles, and pack stories about foremen.

I didn't like the idea myself, but we didn't have recognition of the union, and the boys were asking me a lot of questions, and bringing these things back to the union, and we couldn't do anything about it.

So I just naturally told the boys, "Do as you see fit 2875 about these problems that come up."

That was by me. I couldn't help anything. So it wasn't long then until Mr. Groll came up. I was working on the drill press at that time, drilling some holes in the castings of this little piece of machinery.

He came up and tapped me on the shoulder, and he says, "Frenchy, forget it. Let's start all over again." So I considered that that was the end of it.

I wanted to get along with him, because I like to keep my job the same as anybody else.

Mr. Walsh: That is all. You may cross-examine.

#### *Cross-Examination.*

Q. (By Mr. Block.) Mr. Du Bois, these various conversations that you had with Mr. Groll and Mr. Anselm took place over what period of time, approximately?

I do not mean exact dates; they began when, and continued up to what time, would you say, to the best of your knowledge?

A. Well, they started from the time that Mr. Groll got there, or a couple of days afterwards, until the strike. That is all I can tell you. I don't know the dates.

Q. Can you give us some idea of the months; would it be from September, or before that time in 1936?

A. It must have been after the middle of November some time.

Q. It would be then from the middle of November, 1936, up to February 17th, 1937?

2876 A. Yes.

Q. Is that right?

A. Yes.

Q. These various discussions that you had with Mr. Groll were in the plant, I take it?

A. They were.

Q. In the course of the working operations of the plant?

A. They were.

Q. Is that right?

A. Yes.

Q. That is also true of the conversation with Mr. Anselm?

A. Yes.

Q. Is that correct?

A. That is right.

Q. After you had these various talks, you went back to work?

A. Yes.

Q. Mr. Groll said to you, "Well, Frenchy"—I think that is what you said; that is your nickname, I suppose?

A. Yes.

Q. He said, "Forget it"?

A. Yes.

Q. "Let us try and get along"?

A. Yes.

Q. Or something like that?

A. Yes.

2877 Q. When he told you that, he already knew you were a member of this union?

A. Yes.

Q. He knew you were a member of lodge 66?

A. I had told him.

Q. He had known for a long time, had he not?

A. I think so.

Q. From the time those discussions started until February 17th, were you ever asked to leave the employment of the Fansteel Metallurgical Corporation?

A. No.

Q. Up to February 17th, 1937, were you laid off?

A. No.

Q. Were you discharged up to that time?

A. No.

Q. Up to February 17th, 1937?

A. No, sir.

Mr. Block: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Mr. Walsh: Frank Moxey.

**FRANK MOXEY**, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

2878

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Frank Moxey?

A. Yes.

Q. You have been previously sworn, and have testified, have you not, Mr. Moxey?

A. Yes.

Q. I believe you were employed by the Fansteel Company for 24 years?

A. 21.

Q. 21 years?

A. Yes.

Q. What was the work that you were doing—withdraw that.

What job did you have under Mr. Groll, the foreman who testified here the other day?

A. I had a number of jobs. The main job was making heading dies, and inspecting micrometers, and gauges, cutting gauges and other jobs, small jobs.

I don't know just what you would call them.

Q. Did he from time to time try to change the method of working this material you were working on?

A. No. He didn't bother me in that way, only on some jobs I had to make—

Q. On some jobs?

A. He thought I could draw those tubes different, instead of the way I was making them.

2879 Q. The tubes were made of—what metal were you using?

A. Molybdenum.

Q. Molybdenum?

A. Yes.

Q. He wanted you to draw the tubes in a certain way, did he?

A. He did not want me to do—well, he said he thought I should do it better.

Q. Did you have any arguments about it with him?

A. No.

Q. Did you demonstrate to him it could not be done?



A. No. I don't think we had any argument about it.

Q. Did Mr. Groll state whether he had ever had any experience in working in tungsten or molybdenum?

A. No, he did not.

Q. Do you know whether he had any experience previously, in working these metals?

A. I don't know.

Q. Did you ever see him talking with Mr. Du Bois?

A. Yes, I have.

Q. Did you know what they were talking about?

A. Well, I knew they was having an argument.

Q. I see.

A. That is all I know.

Q. Those arguments lasted for some time, did they?

A. Well, quite a little; sometimes maybe an hour.

2880 Mr. Walsh: I see. You may inquire.

Mr. Block: That is all.

Mr. Walsh: That is all.

Trial Examiner Dudley: You may be excused.

Mr. Walsh: Evelyn Graimer.

EVELYN GRAIMER, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Evelyn Graimer?

A. Yes.

Q. You have been previously sworn, and have testified in this hearing?

A. Yes.

Q. You worked at the Fansteel Company under the supervision of Elsie Aigner, I believe, is that right?

A. Yes.

Q. I will ask you whether or not—I believe Mrs. Aigner testified you worked in a team down there; is that correct?

A. Yes.

Q. While you were there, you worked in a team?

A. Yes, We did.

Q. Did you work in a team all the time?

A. No, I never, not all the time.

Q. Did you work on piece work or hourly work?

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2881 A. I worked on both, mostly piece work.

Q. Mostly piece work?

A. Yes.

Q. During the time that you were there, did you keep a record of the piece work that you did?

A. Yes.

Q. How did you keep that record?

A. Well, every day we wrote down what we done.

Q. For what reason did you write it down?

A. So we could check up on what we made, and refer back to the work.

Q. Was it a custom for the girls working in that department to keep such a record?

A. It was, for piece workers.

Q. For the piece workers?

A. Yes.

Q. Have you, during the time that you worked at the Fansteel Company kept such a record?

A. I have.

Q. That is for all of the piece work that you did, is that right?

A. Just about.

Q. I will ask you if from time to time officials of the company made inquiry or talked to you about the record you kept?

2882 A. Well, the foremen would, if they wanted to look anything up, to see if you done it the day before.

Q. They would ask you to refer to your records, would they?

A. Yes.

Q. Why would they do that?

A. Well, if the cards had already gone through, there may have been a few days arter, that they wanted to see if they had so many set up. They would ask the girls if they had set them up.

Q. Rather than go to the office and check the records over there, they would inquire of the girls in the department how many of a certain number of parts had been made in the last few days, for instance?

A. Yes.

Q. Is that right?

A. Yes.

Q. Do you have your record with you?

A. Yes.

Q. May I see it, please?

A. Yes. (Handing document to counsel.)

Q. Does this record reflect—or, does this record tell whether you were working in a team or working individually, Miss Gramer?

A. No, but during that time this girl was out. She had been out.

2883 Q. The person with whom you normally teamed was out over what period would you say, about?

A. I think she was out three or four weeks before the strike.

Q. Three or four weeks before the strike?

A. Yes.

Q. Then your record of three or four weeks probably preceding February 17th, would be a record of your individual work?

A. Yes.

Q. Is that right?

A. Yes.

Q. Will you look through your records here beginning with January 4th, 1937, and tell me how many days there were upon which you worked on an hourly rate, and how many days there were upon which you worked on day work.

A. There was four days that I had a few hours each day, on day work.

Q. What were those days?

A. On January 11th I had five hours; January 12th, I had one and two-tenths hours; January 13th I had 8 hours; January 14th I had 8 hours.

You see, we worked more hours that days. We worked ten hours.

Q. I see. Then you had, on the last day—you worked eight hours at straight time?

A. At day work.

2884 Q. And the balance of the time you worked on piece work, is that right?

A. Yes.

Q. Now, it was only on those four days that you did any hourly work, is that right?

A. Yes. I think that is right.

Q. Now, your record book from January 4th to February 16th will reflect the amount of work that you did on a piece work basis, will it not?

A. Yes.

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Mr. Walsh: I would like to have that portion of it I would like to introduce it in evidence.

Q. (By Mr. Walsh) I will ask you if on February 11th, you worked alone?

A. I worked alone.

Q. Tell us what you did on that day.

A. I set up 45 jigs, 1094's. That was four nine hours.

Q. Did you work alone on February 12th?

A. Yes.

Q. What did you do that day?

A. I set up 45 jigs, 1094's that day.

Q. During this time the person with whom you normally worked was out?

A. Yes.

Q. Is that right?

2885 A. Yes.

Q. She was out during this time.

A. Yes.

Mr. Walsh: I would like to offer in evidence that portion of her book from January 4th until the time the trouble broke out.

Can you take that out, or can you tear it out?

The Witness: You can tear it out.

Mr. Walsh: Let us tear it out. Let us take out those several pages, so I can offer it as an exhibit.

The Witness: All right.

Mr. Walsh: Mr. Reporter, will you mark this Board's Exhibit No. 41, sub-letters A to F both inclusive.

(The document referred to was thereupon marked Board's Exhibit No. 41-A to F both inclusive.)

Mr. Walsh: I would like to offer that in evidence, if the Examiner please.

Mr. Swiren: That is all right.

Trial Examiner Dudley: No objection?

Mr. Swiren: No objection.

Trial Examiner Dudley: It may be admitted.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 41-A TO F.)

Mr. Walsh: You may inquire.

*Cross-Examination.*

2886 Q. (By Mr. Keele) Miss Gramer, is this record your record of all the work that you did from December 29th to February 16th?

A. I believe it is all there.

Q. What?

A. I believe it is all the work.

Q. All the work that you did?

A. Yes.

Q. That is not only piece work?

A. What?

Q. This is not a record merely of the piece work?

A. No. It is all the work I did. I have marked the hours of day work.

Q. In other words, this accurately reflects all the work that you did?

A. I believe it does.

Q. You know, do you not?

A. Yes.

Q. You made it.

A. Yes.

Q. Tell us how piece work is shown here, and how hourly work is shown.

A. On day work, I have marked "day work" there. All that is not marked "day work", is piece work.

Q. Everything that is not marked "day work" is piece work?

A. Yes.

2887 Q. On the day work, it does not show, does it, how much you accomplished, or does it, here?

A. No, it does not.

Q. It just shows eight hours of day work?

A. Yes.

Q. Some days you did day work and piece work—

A. Yes.

Q. —did you not?

A. Yes.

Q. For instance, I will pick out January 11th, where it says you had five hours of day work, and twelve jigs of 1217.

I assume the remainder of the day except for that five hours was spent—

A. On piece work.

Q. —on piece work?

A. Yes.

Mr. Keele: That is all.

Mr. Walsh: Just a moment.

*Redirect Examination.*

Q. (By Mr. Walsh) What was the standard amount of piece work that was done on part 1094 per day.

A. The most the oldest girls done was 5 an hour.

Q. 5 an hour?

A. 40 a day for eight hours.

Q. I believe your record shows that on February 2888 11th, you did 45?

A. That was for nine hours.

Q. For nine hours?

A. Yes.

Q. So that was the same as all of the rest of the girls?

A. Just the same.

Q. Now, with reference to the other parts that are shown, of which there are several upon which you worked, did you do as much as any other girl in the department, or were there some girls better than you were?

A. I think I done as much.

Q. You think you did as much?

A. Yes.

Q. However, the company's records would show whether you did as much or more than the other girls?

A. Yes.

Q. If they compared the record that you have kept with the records of what the other girls did, it would show whether you were more or less efficient—

A. Yes.

Q. —than the other girls, is that right?

A. Yes.

Q. Did you ever have any arguments with the forelady in your department?

A. No, I never did.

2889 Q. Did she ever criticize the manner in which you did your work?

A. No.

Q. Or the amount that you turned out?

A. No.



Mr. Walsh: That is all.

Mr. Keele: That is all.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Mr. Walsh: At this time, Mr. Examiner, I would like to introduce in evidence as BOARD'S EXHIBIT NO. 42, the by-laws of the Rare Metals Workers of America, local No. 1, Lake County, Illinois.

Mr. Swiren: No objection.

Trial Examiner Dudley: It may be admitted.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 42.)

Mr. Walsh: At this time I wish to introduce as BOARD'S EXHIBIT NO. 43 the opinion of the court in the Circuit Court of Lake County, in the case entitled "Fansteel Metallurgical Corporation, plaintiff, *versus* Lodge 66 of the Amalgamated Association of Iron, Steel & Tin Workers of North American, et al., respondents," Gen. No. 37551.

Mr. Keele: That is objected to.

Mr. Walsh: Just a moment.

2890 Mr. Block: We object to that.

Mr. Walsh: Just a minute, please.

Mr. Block: Oh, I am sorry.

Mr. Walsh: This document bears the certificate of Albert P. McDermott, official reporter of the Circuit Court of Lake County, Illinois, certifying this document is a portion of the record in that case.

I will offer it in evidence.

Mr. Swiren: We object. The law is perfectly clear in the State of Illinois, as a matter of fact, as evidenced by the Supreme Court of the United States, that remarks of a chancellor are not binding on the parties, and form no part of the proceeding; that the binding force lies entirely in the decrees and orders, and that the remarks themselves, whether expressed in a formal opinion or informal opinion or otherwise, are not binding on any of the parties.

They are not part of the record, having no basis for consideration in any appeal, or any other proceeding in connection therewith. If the Examiner has the slightest doubt on the subject, I am prepared to cite full authorities both of the Supreme Court of Illinois, and of the Supreme Court of the United States.

Mr. Block has a further objection that he would like to add.

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Mr. Block: Does that exhibit contain the judgment 2891 order, or the decree of the court in that case?

Mr. Walsh: I do not believe it does. I think it is just the opinion of the court.

Mr. Block: Then it is certainly objectionable. If it is your theory that the judgment of that court is competent on some point in this case, certainly the judgment would control, but to offer merely something the judge said, or that the chancellor said which formed the basis of the opinion in his later judgment, which you cannot question in this case, and which involves entirely different issues, is clearly, I think, an attempt to encumber and confuse this record.

It does not have any bearing. What difference does it make as to what he said? What bearing would it have on this case? We ought to proceed with some regularity here. We have some rules, I hope.

Mr. Walsh: Of course, counsel,—

Mr. Block: If you are going to offer that, I suppose we could likewise go on, and select other things to offer, and the first thing you know, we will not be trying this case; we will be trying some other lawsuit, which is as foreign to this case as England is to this country.

It certainly has no bearing, on any issue, any conceivable issue.

Mr. Walsh: Mr. Block.

Mr. Block: Yes.

2892 Mr. Walsh: You are the one who first introduced the judgment and order.

Mr. Block: Yes. Now then, if you want to offer something concerning that judgment, very well.

Mr. Walsh: You, of course, are familiar, Mr. Block, with the rule in the Federal Court that it is necessary to have the decision of the court, the opinion of the court in the Appellate record.

Mr. Block: We are trying this lawsuit. The issues here are clearly defined. You want to introduce some remarks of the court without giving us a chance to go back and try that case again.

Trial Examiner Dudley: I might say that when respondent introduced the order and the decree as exhibits 3 and 4, and I believe made some motions based upon them, I ruled that the order and decree or findings of the court, the Circuit Court of Lake County, were not binding upon the Board. They were admitted for such bearing as they might have.

I believe you also have copies of writs, injunctions and so forth which have been introduced. Those likewise were allowed to be admitted in evidence for such bearing as they might have.

In no case are they binding upon this Board, either as to findings of facts or rulings of law, because the issues are different, and we have no jurisdiction to or desire to attempt to retry the case which was tried in the Circuit Court.

2393 That is none of our business at all. However, if any of its findings or opinions can help, I suppose we should have the advantage of them. I will admit this, and I will admit anything else you want to introduce. You can bring in testimony—

Mr. Block: How can something which the court said in another case be competent on any question here?

Trial Examiner Dudley: Probably his opinion is—

Mr. Block: Is that the real purpose of it?

Trial Examiner Dudley: (Continuing)—just as important as his order and decision.

Mr. Block: That is not binding.

Trial Examiner Dudley: None of them are binding.

Mr. Swiren: I thing the Examiner has overlooked this proposition: in the first place, there has been a contention here that these men violated an injunction.

Trial Examiner Dudley: That contention has not been made before this Board.

Mr. Swiren: Yes.

Trial Examiner Dudley: Well, you are—

Mr. Swiren: That contention has been made before this Board.

Trial Examiner Dudley: That, of course—

Mr. Swiren: That was establisher by the pleadings and the orders, and those pleadings and those orders are 2394 binding upon the respondent and one of the other parties to this proceeding.

Now, he presents a piece of paper containing remarks that are not binding on anybody. The order and the decree were binding and still are binding on both of these parties. The Supreme Court of the State of Illinois has held, and the Supreme Court of the United States has held that the remarks of the chancellor have nothing to do with the case, and are not binding on anybody, and form no part of the record.

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Mr. Block: Why not offer clippings from the newspaper on the subject?

Mr. Swiren: There must be some good editorials we can offer.

Mr. Block: There must be some limitation to the evidence you will receive, and the evidence you will reject.

Trial Examiner Dudley: I will admit it subject to your objection.

Mr. Block: Exception.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 43.)

Trial Examiner Dudley: You may proceed.

Mr. Walsh: May we have a short recess?

Trial Examiner Dudley: Yes. We will take a short recess at this time.

(Whereupon a short recess was taken.)

2895 Trial Examiner Dudley: I will call the hearing to order.

Mr. Walsh: Mr. Examiner, a day or two ago you made some inquiry as to the efforts that were made to mediate the dispute while the men were occupying the buildings, or during the trouble, during the time the trouble was going on.

Counsel and I have from time to time discussed a stipulation that might properly reflect those efforts, but we have not been able yet to arrive at a basis upon which we could stipulate.

I thought for the purpose of showing what those facts were, I would introduce some testimony at this time.

I would like to call Mr. Meyer Adelman back to the stand.

Trial Examiner Dudley: Very well.

MEYER ADELMAN, recalled as a witness for the National Labor Relations Board, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Meyer Adelman?

A. Yes.

Q. You have previously been sworn—

A. Yes.

Q. —and have testified in this case?

A. Yes.

Q. Talk up so the reporter can hear you.

A. Yes.

2896 Q. You have claimed your privilege under the statute, I believe.

A. That is right.

Q. Mr. Adelman, directing your attention to the period of time between February 17th and February 26th, 1937, I will ask you whether you made any efforts on behalf of lodge 66 to mediate the dispute that was then in existence between the company and the lodge.

A. I did.

Mr. Swiren: That is objected to. I do not see that it makes any difference whether he made any efforts to mediate any dispute or not.

The problem was whether the men had unlawfully seized the buildings and were holding them unlawfully.

Trial Examiner Dudley: Objection overruled.

Mr. Swiren: If it has something to do with their intention to withdraw from the buildings, that might be something different.

Trial Examiner Dudley: Objection overruled.

The Witness: What was the question?

Mr. Walsh: Read the question.

(The question was read.)

A. I did.

Q. (By Mr. Walsh.) Will you tell us, Mr. Adelman, what you did in an effort to mediate the dispute.

2897 Mr. Swiren: We object, unless it is confined to conversations with the respondent. What he may have done with other people is not pertinent.

Trial Examiner Dudley: Or respondent's agents.

Mr. Swiren: Or respondent's agents, yes.

Trial Examiner Dudley: Proceed.

The Witness: I enlisted the aid of the state and federal departments of labor respectively.

Q. (By Mr. Walsh.) Which one did you enlist first?

A. Well, the federal department of labor first appeared on the horizon.

Q. Did you talk with the federal conciliator?

A. I did.

Q. Who was that?

A. Commissioner Pilkington.

Q. Did you discuss the general problem with him?

A. I did.

Q. What did he say to you, and what did you say to him?

Mr. Swiren: That is objected to. Mr. Pilkington was not a representative of the respondent. There is no evidence of any communication either through Mr. Pilkington or otherwise to this respondent or its agents.

He ought to confine his testimony to communications with the respondent and its agents, as the Examiner suggested.

Trial Examiner Dudley: Well, what I am interested 2898 in primarily are conversations had, or approaches made to the respondent, by the union.

I believe we had better allow this to go in, and see what develops out of it. If it is not relevant, we will disregard it.

Mr. Block: If it is not competent, why should it go in? You would not permit the introduction of evidence of what I may have said to somebody else in connection with it, to bind this man.

It is so elementary, I do not see why the record should be cluttered up with it, testimony that is so clearly and obviously incompetent.

Suppose I went to somebody and talked about it. Suppose I talked to somebody on the street about it. Suppose I talked to 100 people about it. Unless it was somebody who could be construed as an agent of the respondent, or unless you could show that that was communicated to the respondent or some agent of the respondent, it would not be competent in any court.

Trial Examiner Dudley: The testimony itself may develop that he made proposals to Mr. Pilkington, which Mr. Pilkington in turn made to the respondent.

Mr. Block: How can he tell that?

Trial Examiner Dudley: Let us see whether he can or not.

Mr. Block: You ought to find out, before you go 2899 into it.

Trial Examiner Dudley: I will admit it.

Mr. Block: Exception.

Mr. Walsh: Read the question.

(The question was read.)

Mr. Swiren: What was the date of that? Let us have the date.

Q. (By Mr. Walsh.) About what time was this, do you remember, when Mr. Pilkington came on the scene?

A. Probably on the 19th of February.

Q. The 19th of February?



A. Yes.

Q. Was that before or after the first gas attack?

A. I cannot recollect exactly.

Q. All right. Tell us what transpired between you and the representative of the department of labor, Mr. Pilkington.

A. I asked Mr. Pilkington to contact the management in our behalf and see if he could bring us together for a conference.

Q. Do you know whether Mr. Pilkington did contact the management?

A. He did.

Mr. Keele: May we for the purpose of the record have an objection shown to each and every question and answer along this line?

Mr. Swiren: There is an additional objection. Un-  
2900 less this witness was present and knows, and can testify to whom Pilkington talked, and what he said, it is certainly not competent.

Trial Examiner Dudley: Objection to the entire line of testimony is noted.

Mr. Block: There is one other additional objection. It is a well known fact that mediators cannot function if they give full information to both sides. What they do is try to wring concessions, ordinarily, if they are negotiating between parties.

What they did in this case ought to be brought out by the persons who were there. We ought not to speculate.

Trial Examiner Dudley: Objection overruled. The objection is noted, and overruled.

Mr. Walsh: Read the question.

(The question was read.)

A. He did.

Q. (By Mr. Walsh.) Did Mr. Pilkington bring you any statement from the management?

A. He did.

Q. What was the message brought from the management by Mr. Pilkington to you?

Mr. Block: Well now, I suppose that is competent. That is objected to.

Trial Examiner Dudley: The objection is noted to  
2901 the entire line of testimony.

Mr. Block: What?

Trial Examiner Dudley: The objection is noted to the entire line of testimony.

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Mr. Block: This is something additional, if the Examiner please.

Mr. Walsh: Mr. Banker is not in court this morning, is he?

Mr. Swiren: What is that?

Mr. Keele: Mr. Banker is not in court this morning, is he?

Mr. Swiren: We will arrange to get him for you. He must be talking to some policeman down on the corner.

Mr. Walsh: It is too bad he is not here, so you can all object.

Mr. Keele: I am sure, with the impartiality which is being shown in this case—

Trial Examiner Dudley: Read the question.

Mr. Keele: I am sure that with the impartiality which is being shown in this case, the efforts of perhaps hundreds of lawyers would be unavailing.

There cannot be any doubt as to the basis, and the substantial basis of these objections.

Mr. Block: At least we still have a right to make an objection, I hope.

Mr. Keele: I think so.

2902 Mr. Block: We have, up to this point, anyway.

Trial Examiner Dudley: I will ask counsel to refrain from making speeches.

Mr. Walsh: I beg your pardon for starting all this.

Trial Examiner Dudley: Read the question.

(The question was read.)

A. Well, he said that so far they are unwilling to meet, but he was going to continue to try.

Q. (By Mr. Walsh.) To your knowledge did he make any other efforts to get the management to meet with you?

A. Oh, yes. He did.

Q. What did those efforts develop?

A. Well, it developed no meeting.

Q. I beg your pardon?

A. It developed no meeting.

Q. It developed no meeting?

A. No.

Q. From time to time did Mr. Pilkington report to you the position of the management on this question of mediation?

A. One time Mr. Pilkington—

Mr. Swiren: That question calls for a yes or no answer, it seems to me. He either did or did not.

Trial Examiner Dudley: Read the question.

(The question was read.)

A. Yes.

2903 Q. (By Mr. Walsh) What did Mr. Pilkington report?

A. He reported that the company would agree to meet some of the sitdowners only as ex-employees, not as members of the union, or as a committee of the union; just as ex-employees.

Q. Did you yourself make any efforts to meet with the management to discuss this question of mediation?

A. That was the only way I could make an effort. There was an injunction there. I couldn't go to the plant.

Q. So you worked entirely through the offices of the department of labor of the United States—

A. Yes.

Q. —is that right?

A. Yes, and the state department of labor.

Q. Who appeared on the scene from the state department of labor?

A. The director of labor, and his assistant, and one more conciliator.

Q. Did you discuss the problem with the state department of labor?

A. I did.

Q. What efforts if any were made on the part of the Illinois State Department of Labor to mediate this dispute?

A. Well, the Illinois Department of Labor immediately sort of got together with the government conciliators.

Q. With the government conciliators?

2904 A. Yes.

Q. Talk a little louder.

A. All right. The government conciliator, and at that time another conciliator came in, Mr. O'Connor, for the government.

Q. By "the government", you mean the United States government, is that right?

A. The United States government, that is right. Jointly they were trying to adjust the proposition, and the meeting switched to the City of Springfield.

Q. That is the capitol of the State of Illinois?

A. The capitol of the State of Illinois.

Q. At whose request did the meeting move from Waukegan, Illinois to Springfield, Illinois?

A. At the request of the director of labor of the State of Illinois.

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Q. Did you have some further meetings with the conciliators in Springfield, Illinois?

A. I did, with the state conciliators, and the governor.

Q. The governor of the State of Illinois?

A. That is right.

Q. The governor is Henry Horner, is that correct?

A. That is correct.

Q. What transpired at those meetings with the state department of labor, yourself, and the governor?

A. Well, I presented the case of the union before the 2905 governor and asked him if he would try to bring the company and us together.

Q. Do you know whether representatives of the Fansteel Company were in Springfield?

A. Yes, I do know that representatives of the Fansteel Company were in Springfield.

Q. Did you see any of them there?

A. No.

Q. Did someone tell you they were present in Springfield?

A. Yes.

Q. Who told you they were present?

A. The governor did.

Q. Did the management ever meet with you and the state department of labor while you were in Springfield?

A. No. They refused to.

Mr. Block: We move that the latter part of the answer be stricken.

Mr. Walsh: Did they ever—

Mr. Block: Pardon me just a moment, Mr. Walsh.

Mr. Walsh: Pardon me.

Trial Examiner Dudley: I will let it stand. We will consider all of the testimony when he gets through.

Proceed.

Q. (By Mr. Walsh.) Was the governor successful in bringing about a meeting between yourself and the 2906 representatives of the management of the Fansteel Company?

A. No, sir.

Q. Was the meeting in Springfield—withdraw that.

After the meeting in Springfield, did you return to Waukegan?

A. Yes, sir.

Q. Were there other efforts made to meet the management after your return from Springfield?

A. There were no other efforts made, because the company had assured the governor there would be sort of a truce—they called it a truce—

Mr. Block: I object to that and move to strike it out.

The Witness: (Continuing) —that they would not try to evict—

Mr. Block: Just a minute.

Mr. Walsh: Just a moment. I believe Mr. Block wants to make an objection.

Mr. Block: He has answered the question. The rest is voluntary, and it is obviously pure hearsay.

Trial Examiner Dudley: Let him answer, so he can get his entire line of testimony in.

Q. (By Mr. Walsh.) How many times, or over what period of time did these various meetings and negotiations occur?

A. They went on right along.

Q. That is, practically from the time—

2907 A. From the time—

Q. —Mr. Pilkington arrived?

A. That is right.

Q. You fixed that date I believe as the 19th of February?

A. I believe so. It probably was the 18th, the evening of the 18th or something like that.

Q. From the time Mr. Pilkington came onto the scene, until—

A. The next day the state man came in.

Q. The state man arrived one day after Mr. Pilkington?

A. Yes.

Q. Is that right?

A. It was not very far apart.

Q. These various attempts to negotiate with the company were going on during the period from February 18th or 19th—

A. Yes.

Q. (Continuing.) —until the time at which the men were forced from the plant, is that correct?

A. That is right.

Mr. Walsh: You may inquire,—no. I have just one more question.

Mr. Swiren: Go ahead.

Q. (By Mr. Walsh.) Mr. Adelman, do you know of any efforts by local or municipal officials of either Waukegan or North Chicago to attempt to mediate this dispute?

1510 *Witnesses for National Labor Relations Board.*

A. Oh, yes.

2908 Q. What were those, and who participated in those efforts?

A. The mayor of North Chicago participated.

Q. What was his name?

A. Mayor Brommey.

Q. Do you know what his efforts were?

A. They were along the same line. He worked with the conciliators very hard.

Q. Did his efforts result in meetings between yourself as a representative of the lodge, and the management of the company?

A. No.

Mr. Walsh: You may inquire.

Mr. Keele: We move to strike this entire testimony. We move to strike the entire testimony of this witness on the ground that he has not in any way established any conversation that took place between himself and the representatives of the company, nor any conversation at which he was present between the company and anybody else.

He has stated only what was said to him by someone who told him that somebody told them that somebody told them that such-and-such was the case. It is about the most flagrant violation of the hearsay rule that we have had, and there is no guarantee here as to the accuracy or authenticity of the statements that have been repeated into the record by this witness.

It gives us no opportunity to cross examine the men  
2909 who are alleged to have made these statements, and has no more bearing on the issues here than if the witness had testified he talked to George the newspaper boy down here on the corner, and George had talked to the governor and the governor had told him so-and-so.

There is absolutely no materiality, and no possibility of counsel examining the persons who are supposed to have made these statements.

Trial Examiner Dudley: Mr. Keele, let me ask Mr. Adelman a few questions.

Mr. Keele: All right.



*Examination by Trial Examiner Dudley.*

Q. (By Trial Examiner Dudley.) Mr. Adelman, did you ever talk with Mr. Aitchison, Mr. Anself, Mr. Swiren, or any other agents of the Fansteel Company?

A. I did.

Q. During the course of the strike?

A. No, not during the course of the strike.

Q. That is, you did not talk with them between February 16th and February 26th?

A. No.

Q. Did you ever send to them any written statements or offers of settlement of the strike during that time?

A. No, sir.

Q. Did you ever send to them any oral word, or emissaries or other negotiators and so forth such as Pilkington, and the people about whom you have just testified?

A. No, sir.

Q. Do you know whether or not—strike that out.

You were on the outside of the buildings during the entire time of the strike, were you?

A. That is right.

Q. Do you know whether or not any of the other members of the union discussed with any of the representatives of the Fansteel Company the question of settling the strike?

A. You mean, during the period—

Q. From February 16th to February 26th.

A. No, sir.

Q. Do you know whether or not the men in the buildings had any conversations with representatives of the Fansteel Company during that time?

A. I do not know, sir.

Q. Then the testimony you have given here largely consists of the fact that you have made representations to Mr. Pilkington and to other mediators and conciliators—

A. That is right.

Q. —expressing the desire of yourself and of the union—

A. That is right.

Q. —to get along with the company?

A. Yes.

2911 Q. And there were no results from those suggestions that you made?

A. No. You see, the reason I could not go there was because there was an injunction. I couldn't go near them.

Trial Examiner Dudley: Well, I will allow his testimony to stand, his testimony only as to the fact he did make suggestions to mediators, and as a result got no response; but not as to direct testimony of what the company did. The company then can put on witnesses if it wishes as to what it said, or as to the position it took, so there will be no misunderstanding of its position in the matter.

Mr. Block: That is the very objection to this line of testimony.

Trial Examiner Dudley: This at least shows the position that the union took. It does not show the position that the company took.

Mr. Block: The position that the company took—

Trial Examiner Dudley: It is not hearsay, as far as the position of the union is concerned. It is direct evidence on that.

Mr. Swiren: What is the difference what position they took? When they seize your buildings and violate an injunction, which is what occurred, whether he had any conversation with Mr. Pilkington, or did not have any conversation with Mr. Pilkington, or whether he talked to the 2912 governor or anybody else, does not change that.

Trial Examiner Dudley: That depends upon the premise. I would like to ask you another question, Mr. Adelman.

The Witness: All right.

Q. (By Trial Examiner Dudley.) In your conversations with Mr. Pilkington and other mediators and conciliators, did you make any definite proposals, or did you ask him to convey any definite proposals to the company as to the terms or conditions upon which you would, and the union would get out of the buildings?

A. The question never came up about getting out of the buildings or staying in there. There was never a question there.

Q. They never asked you—

A. No.

Q. (Continuing)—“What do you want to get out of the buildings?”

A. No.

Q. And you never made any offer?

A. It was not necessary. We were ready to go to work. We were only protesting in the buildings.

Mr. Block: I move to strike that out.

Mr. Walsh: It may go out.

Q. (By Trial Examiner Dudley.) Were you living in the community of Waukegan or North Chicago on the 16th 2913 or 17th of February when this started?

A. Yes. I was in and out, so to speak.

Q. Were you here on the 17th?

A. Yes.

Q. Did you know that the men were going to visit Mr. Anselm on the morning of the 17th?

A. I did.

Q. Did you receive word during the day as to what the results of that conference were?

A. No. I was not here during the day. I left in the morning for Milwaukee. I returned about 9 o'clock in the evening.

Q. About 9 o'clock?

A. Somewhere around there.

Q. So you were not here during the day time on February 17th, just the early morning and evening?

A. That is right.

Q. When you returned in the evening, you received reports as to what had happened during the day, I suppose?

A. Why, I received a call when I called in at the office in Milwaukee. They had a message for me that the plant was shut down. That is the message I had. That is really the only message I had, that the plant was shut down.

Q. I see.

A. I immediately made arrangements to come right back.

Trial Examiner Dudley: I will allow his testimony 2914 to stand as evidence of the position on which the company took towards the mediators, without binding the company as to the position which it took.

Mr. Keele: Do we understand that the questions you asked stand, but the testimony as to what somebody told him will also stand? I am referring to those statements that were made in response to Mr. Walsh's questions as to what somebody told him somebody had said with reference to what the company's position was.

Trial Examiner Dudley: I will allow it to stand not as evidence as to what the company said or did, or as to the position which the company took, but merely as evidence that

1514 *Witnesses for National Labor Relations Board.*

Mr. Adelman, acting as agent for the union, took the position in conferring with mediators and so forth, that they wanted to get together with the company, but actually they never did get together with the company.

As I see it, that is the summation of his testimony.

Mr. Keele: Exception.

Trial Examiner Dudley: An exception is noted.

Mr. Keele: The motion to strike it is denied, I take it!

Trial Examiner Dudley: Yes.

Mr. Keele: Exception.

Mr. Swiren: Our motion stands to all of the testimony.

Trial Examiner Dudley: All of Mr. Adelman's testimony.

Mr. Swiren: I am referring to the testimony before 2915 the inquiries made by the Examiner. It includes all the testimony.

Trial Examiner Dudley: I understand your motion includes all the testimony given by Mr. Adelman this morning.

Mr. Swiren: All right.

Mr. Block: Are you through?

Mr. Walsh: That is all.

Mr. Block: That is all.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Mr. Walsh: At this time, Mr. Examiner, I desire to renew my offer of each one of the several exhibits that may have inadvertently been left out of the record.

I would like to offer each one separately, and offer them all collectively for the record at this time, in order that no exhibit that has been marked for identification will be inadvertently left out of the record. I do that, so it will all be before the Examiner.

Mr. Swiren: We would like to have the record show the same objections.

Mr. Walsh: The same objections by counsel will stand to that offer, of course.

Trial Examiner Dudley: The offer is noted. The exhibits are admitted in evidence.

Mr. Walsh: Very well.

2916 Trial Examiner Dudley: I suggest that we take the time to check all the exhibits before we leave, to be sure they are all here.

Mr. Walsh: I think we should also.

Trial Examiner Dudley: Have you anything further?

Mr. Walsh: At this time I desire to rest my case.

Mr. Swiren: In order that we may be certain that all of our exhibits are received, we desire to offer Respondent's Exhibits Nos. 1 and 2, and Respondent's Exhibits Nos. 5 to 42 both inclusive. Of course, they are subject to the same objections that Mr. Walsh noted. I take it they may be admitted on that basis, Mr. Examiner.

Trial Examiner Dudley: They may be admitted.

Mr. Swiren: Respondent's Exhibits 5, 6 and 42 we are now offering for the first time. They were not separately offered, according to my recollection.

Trial Examiner Dudley: You are offering for the first time Exhibits 5, 6 and 42?

Mr. Swiren: That is my understanding. There may be some others offered for the first time, or there may not.

Trial Examiner Dudley: Let us have it quiet in the room, please.

Mr. Walsh: I have no objection to exhibits 5 and 6. I would object to Exhibit 42.

Trial Examiner Dudley: Respondent's Exhibits 5, 2917 6 and 42 may be admitted in evidence at this time.

(The documents referred to were thereupon received in evidence and marked RESPONDENT'S EXHIBITS NO. 5, 6 and 42.)

Mr. Walsh: Let the record show that Respondent's Exhibit No. 42 has been withdrawn by the Board. A photostatic copy will be supplied for the record.

Trial Examiner Dudley: You may proceed.

Mr. Swiren: I would like to recall Mr. Brown.

Trial Examiner Dudley: Very well.

JAMES BROWN, recalled as a witness for the Respondent, having been previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Swiren.) You have been sworn, and have testified before?

A. Yes.

Q. Your name is James Brown?

A. Yes.

Q. You are cost clerk for the Fansteel Metallurgical Corporation—

A. Yes.

Q. —and have been for some years?

A. That is right.

Q. Are you familiar with the cards that hourly workmen punch in the clocks each day?

2918 A. Yes, sir.

Q. At the plant?

A. Yes, sir.

Q. Have you produced the cards that were in the racks adjoining the clocks in buildings 3 and 5 during the first half of September, 1936?

A. Yes, sir.

Q. You have those here?

A. Right there.

Q. These are the original cards, are they?

A. Those are the original cards.

Q. Have you counted those cards?

A. Yes, I have.

Q. What is the total of all of the cards that were in these racks for the period from the 1st to the 15th of September, 1936?

A. 207.

Q. 207?

A. Yes.

Q. That does not include, I take it, laboratory workers that worked on production?

A. No.

Q. They are in an entirely separate building?

A. Yes.

Q. They have their own clocks?

2919 A. Yes.

Q. Have segregated from these the foremen?

A. Yes.

Q. How many are there of those?

A. 11.

Q. Have you also your payroll sheets for the production workers during that period?

A. Yes, sir.

Q. Those show the same count?

A. Those show the same count.

Mr. Walsh: Just a minute. There are 11—off the record (Discussion outside the record.)

Q. (By Mr. Swiren.) The 11 foremen were not deducted from your 207, were they?

A. No.



Q. 207 was the gross amount—

A. That is right.

Q. —of all the cards?

A. That is right.

Q. You have the same type of cards for the second half of September, have you not?

A. Yes, sir.

Q. Those are the cards that were on the racks from the 16th to the 30th of September, is that right?

220 A. That is right.

Q. How many cards are there of those?

A. 208.

Q. How many of the 208 are foremen's cards?

A. 11.

Q. Your payroll sheets for that period are also here available?

A. Yes, sir.

Q. Each card represents a man at work during that period, is that right?

A. That is right.

Q. As I understand it, those cards represent the men employed in production and maintenance?

A. Yes.

Q. Is that right?

A. Yes.

Q. It does not include clerical help?

A. No.

Q. Or supervisory help?

A. No.

Q. Such as foremen, or plant superintendents—

A. No.

Q. —or officers of the company?

A. No, sir.

Mr. Swiren: I will state for the benefit of counsel  
221 and the Examiner with respect to the summaries given by the witness, that the original records are here in the hearing room available for inspection by any of the parties.

Trial Examiner Dudley: You are not offering them in evidence?

Mr. Swiren: I do not think we want to offer them in evidence. They are very bulky. As you perhaps know, the law in our state has for many years been to permit summaries of bulky evidence, where the original records are in the hearing room.

Mr. Keele: Just a minute, Mr. Swiren.

(Discussion outside the record.)

Mr. Swiren: Mr. Keele suggests that we offer these cards in evidence.

Trial Examiner Dudley: I am not asking for them. I do not care.

Mr. Keele: I think it would be better if we put them in the record.

Mr. Block: We can substitute a list.

Trial Examiner Dudley: You can substitute a list, the same as was done with the union membership cards.

Mr. Swiren: Perhaps we had better have these marked. The first group here will be Respondent's Exhibit No. 43. This one will be Respondent's Exhibit No. 44. This one will be Respondent's Exhibit No. 45, and this will be Respondent's Exhibit No. 46.

2922 (The documents referred to were thereupon marked Respondent's Exhibits Nos. 43, 44, 45 and 46.)

Q. (By Mr. Swiren.) Referring again to the cards that you have just summarized for us, Respondent's Exhibit No. 43 contains all of the cards from the 1st to the 15th of September excluding foremen—

A. Yes.

Q. —is that right?

A. Yes.

Q. Respondent's Exhibit 44 is the same group of cards only so far as foremen are concerned?

A. That is right.

Q. What is the total of the group contained in Respondent's Exhibit No. 43? How many cards are there?

A. 196.

Q. Those are the production—

A. That is right.

Q. —and maintenance employees?

A. That is right.

Q. How many cards are there in Exhibit 44?

A. 11.

Q. Those are the foremen's cards?

A. Yes.

Q. Now, Respondent's Exhibit No. 45 contains production and maintenance employees cards for the last half of February—

2923 A. September.

Q. —September, 1936, and total how many?

A. 197.

Q. Respondent's Exhibit No. 46 containing cards of the foremen for the same period totals how many?

A. 11.

Q. Those are the foremen's cards?

A. Yes, sir.

Mr. Swiren: We offer RESPONDENT'S EXHIBITS NOS. 43, 44, 45 and 46 in evidence, if the Examiner please.

Mr. Walsh: May I reserve my objection until we have an opportunity to check the cards?

Mr. Swiren: May we have leave to withdraw those cards and substitute a list, so it will not encumber the record?

Mr. Walsh: There will be no objection to that. I want to reserve my objection.

Q. (By Mr. Swiren.) Now, can you tell us from those cards, the production employees on September 10th, the production and maintenance employees on September 10th other than foremen?

Trial Examiner Dudley: Just a moment. I do not know whether I quite understood your last question. Read the question please, Mr. Reporter.

(The question was read.)

A. 196.

Q. (By Mr. Swiren.) On September 21st how many were there?

224 A. 197.

Q. Do those figures include production employees working out of the laboratory?

A. No, sir.

Mr. Swiren: That is all.

Mr. Walsh: Mr. Examiner, it is very close to 12 o'clock. I would like to examine these cards some time before I go into cross-examination of Mr. Brown.

I may find some reason why I should object to the introduction of these cards. If so, I want to have it in the record. I would like to examine these cards first, and I suggest that we adjourn at this time so I can look them over.

Mr. Swiren: We have another witness. We will bring Mr. Brown back for cross-examination after lunch, if you do not mind.

Mr. Walsh: That is fine. Go ahead.

Mr. Swiren: You may go for the time being, Mr. Brown.

(Witness withdrawn.)

Mr. Keele: Mr. Aitchison.

ROBERT J. AITCHISON, recalled as a witness for the Respondent, being previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Keele.) Your name is Robert J. Aitchison?

A. Yes, sir.

2925 Q. You have been previously sworn and have testified in this case, have you not?

A. Yes.

Q. Were you present at this hearing when a man named John Fay Harris testified about having sent a letter to the Fansteel Company addressed to you with reference to some gratuitous offer of his to act as a mediator or something of that nature?

A. No, I was not here at that time.

Q. Did you see a copy of that letter which was introduced in evidence?

A. No.

Mr. Keele: May I see that?

Mr. Swiren: Here it is (handing document to counsel).

Q. (By Mr. Keele.) I show you Board's Exhibit No. 29. I will ask you to read that exhibit.

A. I have read it now.

Q. I will ask you whether or not you ever received any communication which was an original of that, or which contained the matter contained in that exhibit.

A. I did not.

Q. Did you ever hear of John Fay Harris before?

A. No, sir.

Q. Do you know who he is, or did you know who he was, as to his position?

Did you know there was such a position as held by him?

2926 A. I did not.

Q. Now, was there—

A. It does not say in here what he is.

Q. Was there an order outstanding at the Fansteel Company from the 17th day of February, which is still in effect, that any communication with reference to sitdown strikes should be delivered directly to your desk?

A. They all go to my desk. I have instructed them to send them to my desk.

Q. Have you heard of anyone receiving such a letter at the company?

A. No.

Q. Did you ever receive any letter from Harris, John Fay Harris, or John F. Harris?

A. No. I do not remember of ever having received any letter from him of any kind.

Q. Did you ever hear of anyone connected with the company having a letter from John F. Harris, or John Fay Harris?

A. I never discussed with anybody any letter from him on any subject.

Mr. Keele: That is all.

Mr. Walsh: No cross-examination.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Trial Examiner Dudley: We will take a short recess.

297 (Whereupon a short recess was taken.)

Trial Examiner Dudley: For the record, I would like to call your attention to the fact that we have in the files Respondent's amendment to the answer which is noted as "Filed", with no exhibit number.

Mr. Walsh: Mr. Examiner, at this time I move to file as part of Board's Exhibit No. 1, the amendment to the answer of the respondent in this case, which will take Exhibit No. 1-Q.

Trial Examiner Dudley: It may be admitted.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 1-Q.)

Trial Examiner Dudley: We will adjourn at this time. We will recess for lunch, and reconvene here at 2 P. M. this afternoon.

(Thereupon, at 12 o'clock, Noon, a recess was taken to 2 o'clock, P. M.)

*After Recess.*

(The hearing was resumed at 2:00 o'clock, P. M. pursuant to the taking of recess.)

Trial Examiner Dudley: Come to order, gentlemen. You may proceed.

Mr. Swiren: I will recall Mr. Brown for another question or two on direct, if there is no objection.

Trial Examiner Dudley: The witness may be recalled.

JAMES BROWN, resumed the stand, being previously  
2928 duly sworn, testified further as follows:

*Direct Examination (Continued).*

Q. (By Mr. Swiren.) I think you told me during recess and told Mr. Walsh that the number of cards you stated as making up Exhibit No. 43 was incorrect.

A. Yes.

Q. Is that right?

A. Yes.

Q. What should that number be?

A. It should be 195.

Q. There are only 194 cards here, are there not?

A. There are only 194 cards. One man does not punch on that type of card.

Q. He punches on a different clock?

A. He punches on a different clock, and punches a different style card.

Q. You do not have that one here?

A. No.

Q. Who is he?

A. John Petz.

Q. What does he do?

A. He is janitor.

Q. The testimony before was 196. It should be—

A. 195.

Q. —195?

2929 A. That is right.

Trial Examiner Dudley: One card from the 195 cards is still missing?

Mr. Swiren: One of the 195 cards is still missing.

Trial Examiner Dudley: So there are 194 cards there?

Mr. Swiren: And there is one man who does not have a card in this group.

The Witness: There is one man who does not have a card in this group. He does not have a card of this type.

Q. (By Mr. Swiren.) He does not have a card of this type, you say?

A. That is right.

Mr. Swiren: That is all.



*Cross-Examination.*

Q. (By Mr. Walsh.) What is his card number, Mr. Brown?

A. Petz'?

A. Yes.

A. We passed through it. I do not remember what it was.

Q. Can you find that?

A. Yes.

Q. All right.

A. The number was 140.

Q. Mr. Brown, referring to Respondent's Exhibit No. 43 which contains a group of cards representing time employees who worked for the Fansteel Company for the half 2330 month ending September 15th, there are a number of those cards in that exhibit concerning which I would like to have you testify individually.

Do your records indicate what each one of those persons did?

A. Yes, sir.

Q. In any case, where the records do not indicate what they do, would you know personally?

A. I might in some cases.

Q. You would be probably as competent a person to testify concerning the duties of these various individuals as anybody else at the company?

A. No; the foremen would be.

Q. Then in these cases which might arise as we go through these cards concerning which there would be any question, if you did not know their duties, you say the foremen of the departments—

A. That is right.

Q. —would be able to testify—

A. That is right.

Q. —more accurately?

A. Yes.

Q. Is that right?

A. Yes.

Q. How long have you been with the company?

A. Over 10 years.

2331 Q. Over 10 years?

Yes.

Q. I presume there are many of these people whom you know personally, are there not?

A. Yes.

Q. Those whom you do not know personally, you are familiar with their names?

A. And with their faces.

Q. Yes. You are generally familiar with them—

A. Yes.

Q. —and what they do?

A. Yes.

Q. Is it your duty to make up the payroll?

A. I supervise the making up of the payroll.

Q. You supervise it?

A. Yes.

Q. The company pays by check, I believe, does it not?

A. That is right.

Q. You supervise the writing out of the checks?

A. That is right.

Q. You supervise the making up of the amount—

A. That is right.

Q. —that is, arriving at the amount of pay each one of these persons gets?

A. I have charge of that. I am responsible for that.

2932 Q. And you are responsible for it?

A. That is right.

Q. So if you would pay a man too much or too little, the error would have to be corrected by yourself, is that right?

A. That is right.

Q. If an error was made concerning what a man was paid, it would be your duty to straighten the thing out?

A. I would straighten it out.

Q. I will hand you this group of cards. I think there are 21 or 22 of them. I would like to have you refer to those as you testify.

A. All right.

Q. Card No. 520 represents Frederick Holm?

A. That is right.

Q. Would you tell what Holm's duties were?

A. Fred Holm is a wire drawer.

Q. Was he a permanent employee of the company on September 10th?

A. No, he was not.

Q. When did he become a permanent employee of the company?

A. I cannot say that from the records that I have with me.

Q. Would the time card indicate whether he was working for the company on September 10th?

A. Yes. It would indicate he was not.

Q. He was not working?

2933 A. Yes.

Q. Let us pass on to the next man.

A. All right.

Q. Card No. 592 represents Ed Korn, is that right?

A. Yes, Ed Korn.

Q. What were his duties?

A. His duty was that of a bricklayer.

Q. Was he a permanent employee—

A. Yes.

Q. —of the company?

A. Yes, sir.

Q. Was he employed on the 10th day of September?

A. Yes, he was.

Q. Is he still employed by the company?

A. I do not have the records beyond these dates with me.

Q. You do not have the records beyond these dates with you?

A. No.

Q. Do you have any independent recollection?

A. I do not recollect.

Q. He was called in to lay brick in what capacity? I mean—withdraw that.

He was a bricklayer; what did he work on; what part of the factory did he work on?

A. I can't say that.

Q. You cannot say?

2934 A. I do not know what he worked on.

Q. Do you permanently employ at this time bricklayers?

A. No. We have our work done by outside contractors.

Q. Outside contractors?

A. Yes.

Q. Was he properly a member of the maintenance crew?

A. Yes.

Q. Your records—the records at least that you have with you do not indicate whether he is working now?

A. No, they do not. I have only one month's records.

Q. You just have the records for the month of September—

A. That is right.

Q. —concerning which we are talking?

A. That is right.

Q. You have no independent recollection of whether he worked after September or not?

A. No. I do not handle this in detail every day.

Q. I see.

A. I have my timekeeper take care of that.

Q. I see. Let us proceed to card No. 576, the card of Frank Lodesky.

A. Our records show Frank Lodesky was employed by the company on September 10th.

Q. Did he work any time during the month of September?

A. He did not work in the month of September.

Q. I believe, as a matter of fact, Lodesky was ill?

2935 A. I believe he was.

Q. He had a long, lingering illness, and later died?

A. Yes, he did.

Q. Do you recall when he died?

A. I happen to have that information.

Q. You do not have it?

A. Yes, I have it.

Q. Oh.

A. He died October 14th.

Q. He died October 14th?

A. That is right.

Q. Nevertheless, he was carried on your rolls as an employee?

A. That is our practice. We do not discharge a man when he is ill.

Q. Now, refer to card No. 318, the card of Ernest Benson.

A. Ernest Benson is a watchman.

A. Yes.

Q. Is he paid on a monthly or hourly basis?

A. An hourly basis.

Q. Where does he perform his duties?

A. Between all the buildings.

Q. What does he do, have a detect system? Does he go around and punch clocks at various times and at various places?

A. That is right.

2936 Q. Now, refer to card No. 358, the card of Anton—you pronounce it.

A. Sustersech.

Q. How do you spell that?

A. S-u-s-t-e-r-s-e-c-h.

Q. Mr. Swiren: What is his first name?

Mr. Walsh: Anton.

Mr. Swiren: All right.

Q. (By Mr. Walsh.) What do your records indicate as to him?

A. I happen to know he has been employed by the company for a number of years. He was ill during the first half of September.

Q. He is since deceased, I believe.

A. Yes, he is.

Q. Do you recall when he died?

A. He died during February, 1937.

Q. 1937?

A. That is right.

Q. You do not recall when he died?

A. Not the exact date, no. I do not have that.

Q. Was it before or after the trouble, do you remember?

A. I do not remember. I believe it was before that.

Q. He was, of course, carried as an employee—

A. He was.

Q. — when he was not working?

2937 A. He worked the full last half of September.

Q. He worked the last half?

A. Yes.

Q. Now, refer to card No. 187, the card of Harry Brandt.

A. He anneals tantalum sheet. He worked the full period in September.

Q. He is employed in the laboratory, is he not?

A. No.

Q. Where does he work?

A. He works in the tantalum annealing department.

Q. The tantalum annealing department?

A. Yes.

Q. Was he working there in September?

A. The full month of September, yes, sir.

Q. Now, refer to card No. 97, the card I believe it is, of Eino Johnson.

A. He operated heading machines.

Q. The card you furnished us there is dated what date?

A. This date here (indicating)?

Q. Yes.

A. It is dated August 15th. I can make sure about that in just a minute, and see whether that is wrong.

It is his card for September 15th. It has been misdated in the office.

Q. The card you submitted truly reflects the period 2938 of time he worked during the first half of September, is that right?

A. Yes.

Q. But the card—

A. The card should be dated "September 15th".

Q. September 15th?

A. Yes.

Q. It is erroneously dated "August 15th"?

A. It is erroneously dated "August 15th" by the clerk.

Q. Did he work—or rather, has he been regularly employed by the Company, and was he at that time?

A. Yes.

Q. He did work during the month of September?

A. Yes.

Q. Both halves of the month?

A. Yes.

Q. Is that right?

A. Yes.

Q. Now, refer to card No. 252, the card of Jane Collier. When did Miss Collier start to work?

A. Apparently on September 15th.

Q. 1936?

A. That is right.

Q. Did Miss Collier work during the last half of September?

A. Yes.

Q. She was not employed before September 15th—  
2939 A. That is right.

Q. — 1936?

A. That is right.

Q. Now, refer to card No. 155, the card of Edward Chapman.  
man.

A. He was in the annealing department.

Q. He was in the tantalum annealing department?

A. Yes, sir.

Q. He did not work in the laboratory during that period of time?

A. No, sir. He worked in the tantalum annealing department.

Q. You have him charged to that department, is that right?



A. Yes.

Q. Do you know whether Chapman was in the laboratory?

A. As far as I know he was not.

Q. He was not?

A. That is right.

Q. You have carried him for some time?

A. He has been employed many years.

Q. Many years?

A. Yes.

Q. You have always had him charged to that department as far as your records are concerned?

A. Yes.

Q. He works on an hourly basis?

A. That is right.

2940 Q. Refer to card No. 326.

A. Yes.

Q. Will you spell both names, and pronounce them for us.

A. Well, I will spell them. The first name is Sever, S-e-v-e-r; the second name is Sorzickas, S-o-r-z-i-c-k-a-s.

Q. Yes.

A. He is a watchman.

Q. He is a watchman, is he?

A. Yes.

Q. Where does he perform his duties?

A. As far as I know, all the watchmen make the same rounds.

Q. They have about the same duties, and work probably in shifts?

A. Yes.

Q. They plug in at various places?

A. They alternate. They go first one way and then the other.

Q. Is he paid on an hourly basis?

A. Yes.

Q. Now, refer to card No. 317.

A. That is the card of Louis Lindich.

Q. Yes.

A. Louis Lindich is also a watchman.

Mr. Swiren: How do you spell that?

The Witness: L-i-n-d-i-c-h.

Q. (By Mr. Walsh.) Now, refer to card No. 312.

2941 A. The same.

Q. What is his—

A. No. 312; he is also a watchman.

Q. Give the name to the reporter, please.

A. Joe Zewe.

Q. Spell the last name.

A. Z-e-w-e.

Q. Now, refer to card No. 229, the card of Joseph Herberger.

A. He is a janitor.

Q. He is a janitor?

A. Yes.

Mr. Swiren: How do you spell that?

The Witness: H-e-r-b-e-r-g-e-r.

Q. (By Mr. Walsh.) He is a janitor and also a watchman at the gate, is he not?

A. He alternates.

Q. He alternates?

A. I believe he relieves the watchman at the gate at periods.

Q. Some of his duties are those of a janitor—

A. His duties are those of a panitor. That is why he was hired.

Q. He was hired as a janitor?

A. Yes.

Q. He also relieves the watchman at the gate?

A. As far as I know, for the lunch period, or some-  
2942 thing like that.

Q. I see. He is available for that purpose?

A. Yes.

Q. Now, refer to card No. 140. That is the one whose card you do not have here.

A. He is also a janitor.

Q. He is also a janitor?

A. Yes.

Mr. Swiren: How do you spell his name?

The Witness: P-e-t-z.

Q. (By Mr. Walsh.) He is employed at the office, is he not?

A. He is janitor in the office building, yes.

Q. He has no other duties in and about the factory?

A. No, sir.

Q. His time actually is kept on the general office time record, is it not?

A. His time record is kept in the factory payroll books.

Q. It is carried on the factory payroll, is that right?

A. He is a factory payroll man.

Q. He is a factory payroll man?

A. Yes.

Q. He is so charged in your accounting practice?

A. Yes.

Q. That is correct, as I understand it?

A. Yes.

2943 Q. You keep his time, however, for convenience, I suppose—I mean, he punches the office clock?

A. He punches the office clock. In fact, he does not punch the clock now, because we took the clock out.

Q. I see.

A. Right at the present time he just turns in his own cards.

Q. He just turns in his own cards?

A. They are O. K.'d by the superintendent, and he is paid.

Q. He is paid on an hourly basis?

A. On an hourly basis, yes.

Q. The next card you have there is No. 4, the card of Elsie Aigner.

A. Yes.

Q. What are Elsie Aigner's duties?

A. Setting up contacts and instructing new help.

Q. Does she have any other duties that you know of?

A. She takes care of some of the records that come to the factory office.

Q. What does she do, keep track of the production of the girls?

A. No. That is taken care of by Dean Bennett.

Q. Dean Bennett does that?

A. He signs all the cards.

Q. Dean Bennett is the person, I presume, to whom 2944 Mrs. Aigner is responsible, is that right?

A. He is her foreman.

Q. Do you know whether she is ever referred to as a forelady?

A. I have never heard her referred to as such.

Q. She testified here that she was a forelady or something like that.

A. I never heard of that.

Q. You do not know whether she is considered as such by the people who work in her department, do you?

A. No. As far as I know, it is Bennett that signs the reports.

Q. So far as you know, it comes from Bennett, is that right?

- A. Yes, that is right.
- Q. You do not know whether she has any authority to hire, fire or supervise?
- A. She has no authority to hire and fire.
- Q. She does not?
- A. No.
- Q. Now, let us progress to Charles Cerk, card No. 51.
- A. His duties are the sintering and hammering of bar.
- Q. Where does he work?
- A. In building 2, the sintering building.
- Q. The sintering building?
- A. Yes.
- Q. Do you know whether he has any authority to  
2945 hire or fire?
- A. I know he has not.
- Q. You know he has not—
- A. Yes.
- Q. —such authority?
- A. That is right.
- Q. You do not know whether he has any authority to lay out work for other men, or to see whether they are doing it properly?
- A. I do not know whether he has or not.
- Q. You do not know that?
- A. No. The foreman turns in all the cards.
- Q. So far as your records would indicate then, anything he does would be through the foreman, is that right?
- A. That is right.
- Q. Let us take up card No. 174, the card of Frank Mack.
- A. His job is swaging rods.
- Q. His duties, so far as your records indicate, consists of swaging rods?
- A. Swaging rods, and he is straw boss in the department.
- Q. He is straw boss, is he?
- A. Yes.
- Q. Do you know whether Cerk is a straw boss in the sintering department?
- A. I do not think he is.
- Q. You do not think he is?
- 2946 A. No.
- Q. But Mack is a straw boss?
- A. Yes.
- Q. He is paid as such, I suppose?

A. No. He is paid as a swager.

Q. He gets an hourly rate?

A. He is an expert swager.

Q. I beg your pardon?

A. He is an expert swager, swaging machine operator.

Q. He is so paid, as an expert, is that right?

A. Yes.

Q. Let us take up No. 166, the card of James White.

A. James White; his job is the rolling of tantalum sheet in the tantalum department.

Q. Do you know whether James White is a straw boss?

A. He is considered as a straw boss.

Q. I see.

A. We take records from him as straw boss.

Q. Let us go to card No. 408, the card of James Hall.

A. He is a rectifier.

Q. Is he also considered a straw boss?

A. He is considered a straw boss, yes.

Q. Take card No. 376, John Zewe.

A. He is an inspector.

Q. He is also considered a straw boss, is he not?

2947 A. Yes, he is. He spends most of his time however, inspecting wire, sheet, and so forth.

Q. Take up card No. 505, the card of Laurie Makinen.

A. Laurie Makinen is a wire drawer.

Mr. Swiren: Spell his name, please.

The Witness: M-a-k-i-n-e-n.

Q. Mr. Swiren: I believe he worked nights, did he not?

The Witness: I cannot say from the records.

Q. (By Mr. Walsh.) Your records do not indicate that?

A. They indicate so many hours on a certain day. They do not show whether they are nights or days.

Q. Do you know whether he had charge of the wire department or not?

A. I do know that he did not.

Q. Is he considered a straw boss?

A. No, sir, not that I know of. His full time was spent in wire drawing production.

Q. Let us take up card No. 203, the card of Jay Bisby.

A. Jay Bisby is general grinder in the contact department.

Q. Do you know whether he is a straw boss?

A. He is not.

Q. You think he is not a straw boss?

A. I know he is not.

Q. Does he have any authority to supervise?

A. Only under the instructions of the foreman.

2948 Q. Who is the foreman?

A. Dean Bennett.

Q. Dean Bennett?

A. Yes.

Q. You do not know whether Mr. Bisby occupies the same position as Elsie Aigner or not, is that right?

A. I know he does not.

Q. You know he does not?

A. Yes.

Q. Let us progress to card No. 311, the card of Louis Karpan.

A. Louis Qarpan works in the boiler house—

Mr. Swiren: How do you spell that last name?

The Witness: K-a-r-p-a-n.

Mr. Swiren: All right.

The Witness: He works in the boiler house. He is a fireman.

Q. (By Mr. Walsh.) He works in the boiler house?

A. Yes.

Q. He is a fireman, you say?

A. Yes.

Q. He is paid on a monthly basis?

A. Yes.

Mr. Walsh: Mr. Examiner, I would like to make this statement for the record, so whoever reads it will understand. The Respondent introduced in evidence its exhibit No. 45, which was a group of cards 197 in number, representing persons employed by the company for the last half of September, 1936.

All of the persons concerning whom Mr. Brown has just testified with the exception of three additional persons, occupied, I believe, the same positions during the last half of the month that they did during the first half.

Therefore it will not be necessary to examine Mr. Brown as to those again on this exhibit, inasmuch as it would be repetition.

Therefore, I will not cover that same ground, but I will ask Mr. Brown about additional persons found in the exhibit.

I made a mistake, Mr. Examiner. There are three per-



sons appearing on the list of September 15th, who do not appear on the list for September 30th, and there are three persons appearing on the list for September 30th that do not appear on the list for September 15th.

Trial Examiner Dudley: You may proceed.

Q. (By Mr. Walsh.) Mr. Brown, I hand you three time cards which represent the time of the—off the record.

(Discussion outside the record.)

Q. (By Mr. Walsh.) I hand you time cards from Respondent's Exhibit 45, numbered 245, 255 and 256.

A. You mean, 254, 255 and 256?

Q. 254, 255 and 256.

A. Yes.

Q. Refer to card No. 254.

2950 A. Yes.

Q. That is the card of Mary Worklan.

A. Yes.

Q. When did this lady start to work for you?

A. The record I have here would indicate the 28th.

Q. The 28th of September, 1936?

A. I do not have the preceding records to know whether or not she was employed, but did not work during this period.

Q. I see.

A. The same thing applies to these others.

Q. They might have worked at some other time?

A. They might have I don't know what time.

Q. Have you any independent recollection—

A. No.

Q. (Continuing)—whether she is an old employee or a new one?

A. No, I haven't.

Q. If she had formerly been employed, that would be reflected by some records you have?

A. That would be reflected by records prior to this.

Q. Refer to card No. 255, the card of Lila Morgan.

A. Yes.

I would say the same thing for that card.

2951 Q. That card indicates she started to work—

A. On the 29th.

Q. —September 29th, 1936?

A. Yes.

Q. Is that right?

A. Yes.

Q. If she were an old employee, if she had been working

for some time, the records you have before you would not reflect that?

A. The records I have with me would not reflect that, no.

Q. Have you any independent recollection?

A. I do not have any independent recollection of these girls at all.

Q. You cannot tell us whether she was one of the old employees or not?

A. No.

Q. Now, take the card of Elizabeth McCann, No. 256.

A. Yes.

Q. Her card indicates she started to work on September the 28th.

A. September the 28th.

Q. If she had been an old employee, the records you have before you would not reflect that?

A. That is right.

Q. Have you any independent recollection of her?

2952 A. I have not.

Q. Returning again to the position occupied by Elsie Aigner and Jay Bisby in the contact department—

A. Yes.

Q. (Continuing)—have you ever heard anybody say they were considered as straw bosses?

A. No. I have never heard mention of that.

Q. I presume you know both of them, do you not?

A. Yes.

Q. They are old employees of the company.

A. Yes.

Q. Were you present when Mrs. Aigner testified the other day?

A. I was for some of it; I believe I was.

Q. Do you remember her having said that she furnished a list of girls whom she wanted to return?

A. On instructions from Dean Bennett.

Q. Yes.

A. Yes.

Q. Would that indicate to you she may have had some supervisory work to do along with her own work?

A. No. That would indicate she is the set-up girl. She has had much experience in setting up contacts.

Q. Explain that a little more fully. Tell us a little bit more about how that work is done.

2953 A. Setting up contacts is the operation which they perform in that department. She has been employed, I believe 20 years, 20 some odd years I think she said on the witness stand.

Q. I do not recall—

Mr. Swiren: It has been a great many years.

The Witness: Since 1908, I think.

Mr. Walsh: You are thinking of Mary Atkinson.

Mr. Swiren: I think she said 11 years.

Mr. Walsh: I do not recall.

The Witness: She is given her duties by Dean Bennett, the foreman.

Q. (By Mr. Walsh.) Does she lay out work?

A. She helps Dean Bennett lay out work.

Q. Does Jay Bisby occupy a comparable position?

A. No, sir.

Q. In his own department?

A. No, sir.

Q. He does not?

A. No.

Q. What are his duties?

A. His duties are setting up machines for the girls, taking care of the difficult parts through production. He is more of a mechanic in the department.

Q. Does he show the girls how to operate the machines?

A. He has on occasions. That is not his general job.

2954 Q. You would not be able to tell whether Elsie Aigner occupied the same position?

Mr. Swiren: That is objected to. He has explained that three or four times. I think that is enough.

Mr. Walsh: I know Mr. Brown does not know all of these things. All I want are the facts.

The Witness: A. I know it is a fact that he does not have anything to do—he would not be considered a straw boss. He is a mechanic in the department. That sums it all up.

Mr. Walsh: I think that is all.

Mr. Swiren: Let me ask you one or two more questions.

*Redirect Examination.*

Q. (By Mr. Swiren.) The maintenance department does work for the entire plant, I take it?

A. Yes.

Q. Some of the carpenters come in and do work in the office building?

A. Yes.

Q. And some of the electricians?

A. Yes.

Q. You treat all of that labor as part of your factory labor?

A. That is right.

Q. You put the janitor in the office building in the same classification?

A. He is under the same man as the factory's janitors.

2955 Q. He is in the same department?

A. Yes.

Q. He has nothing to do—strike that out.

Who directs the office?

A. E. F. Radke, is office manager.

Q. Does he have any jurisdiction over the janitor?

A. No.

Q. The janitor is in the same department as the janitor in the rest of the buildings?

A. That is right.

Q. Is there any difference between his kind of service, Aigner's service as a janitor?

A. The kind of service?

Q. Yes.

A. It is sweeping floors in both instances.

Q. Aigner did the sweeping in the tool room, and Petz in the office building?

A. It was just a different building, that is all.

Q. You mentioned Frank Mack, Jimmy White, Hall, and Zewe; you said they were regarded as straw bosses.

A. I would consider them as straw bosses.

Q. Were there foremen over them?

A. Yes, sir.

Q. Did they have or do they now have the power to hire or fire?

2956 A. They do not.

Q. Do they work in production?

A. Yes, sir.

Q. They work right along with the men there?

A. That is right.

Q. As a matter of fact, there are just a few men in each instance working along with a leader?

A. That is right.

Q. They are gathered together under one foreman?

- A. That is right.
- Q. With respect to most of them—withdraw that. Were they all on an hourly basis?
- A. On an hourly basis.
- Q. They are kept in the hourly payroll, and paid on an hourly basis with all other factory help?
- A. They are all together.
- Q. By the way, do you keep a record of the foremen?
- A. No, we do not.
- Q. Another department keeps those?
- A. The general accounting department.
- Q. You keep the records of all of the factory help?
- A. That is right.
- Q. You keep regularly the records of Mack, White, Hall and Zewe?
- A. Yes.
- 2957 Q. Are all foremen on a monthly basis?
- A. Yes.
- Q. They do not work in production, as I understand it.
- A. No.
- Q. They just supervise the work of the others?
- A. That is right.
- Q. These men that you have designated as straw bosses, actually go into production work themselves?
- A. Yes, sir.
- Q. And do it?
- A. Yes.
- Mr. Swiren: That is all.
- Mr. Walsh: I have a question or two.
- Mr. Swiren: Just a moment, Mr. Brown.
- The Witness: All right.

*Recross Examination.*

- Q. (By Mr. Walsh.) Who makes out the time cards in building 2?
- A. Ed Sims.
- Q. Does Charlie Cerk have anything to do with that?
- A. I believe that Charlie Cerk gathers statistics and items of information.
- Q. Concerning the work done?
- A. That is, hours and so forth on the jobs.
- Q. That is, he helps to determine the cost of each operation?

2958 A. No. He merely submits the information to the office.

Q. From which you figure the cost?

A. From which we figure the cost.

Q. Is that right?

A. Yes.

Q. For instance, if he had four men working four hours on a certain job, he would turn that time in?

A. The time ticket would come through that way, signed by the foreman.

Q. He is the one who comes around and gathers up the time, is that right?

A. He gathers it up under the jurisdiction of the foreman.

Q. That is done under the jurisdiction of the foreman, is that right?

A. Yes.

Q. When the foreman Sims is away, does he do that all himself, and send the time in himself?

A. He may possibly do it during a vacation period.

Q. Well, suppose Sims was away on a vacation.

A. I believe during vacation period all the time come through Luther Henry.

Q. It all comes through Luther Henry?

A. I believe it does.

Q. Then he would do the same for Luther Henry that he had done for Sims?

2959 A. Yes.

Q. Is that right?

A. That is right.

Q. You do not know whether Sims assigns him to other duties, do you?

A. He has many other duties. He hammers and sinters, yes.

Q. Does he assign him any other supervisory duties?

A. None that I know of.

Q. Does he do any breaking in of new help?

A. No.

Q. Or things like that?

A. I do not think so.

Mr. Walsh: That is all.



*Redirect Examination.*

Q. (By Mr. Swiren.) Jane Collier started on the 15th of September, and was a permanent employee, I take it. She stayed right on?

A. I believe she did.

Q. She stayed on through all of September, did she not?

A. What was her number?

A. 252.

Trial Examiner Dudley: 252.

The Witness: Yes, she was employed during the full month of September.

Q. (By Mr. Swiren.) You indicated that Frank 2960 Mack was not a permanent employee, is that right?

A. What was his number?

Mr. Keele: No. 530.

Mr. Swiren: 520.

Mr. Keele: Oh; I thought it was 530.

Mr. Swiren: No; 520.

The Witness: I indicated that Frank Mack was not employed on the 10th. That is right.

Q. (By Mr. Swiren.) He was employed subsequent to that time?

A. He was employed to the 3rd.

Q. Of what?

A. Of September.

Q. To the 3rd of September?

A. Yes.

Q. On the 1st of September, the 2nd and the 3rd, he was employed?

A. Yes, sir.

Q. All the others were permanent employees—

A. Yes.

Q. —is that right?

A. Yes.

Q. All the other people whose cards have been talked about, and whose cards were introduced in evidence were permanent employees?

A. That is right.

2961 Mr. Swiren: That is all.

Mr. Walsh: I have just one or two more questions about Risby.

Q. (By Mr. Walsh.) When Dean Bennett is away, what are Lisby's duties, if you know?

A. I believe when Dean Bennett is away that Bisby and Aigner between the two—

Q. You are referring to Elsie Aigner?

A. Yes—take the time cards.

Q. Between the two of them, they get up the time, is that right?

A. Yes. I do not believe, however, it has been that way in each instance. I believe there have been others that took care of that.

Q. Who are the others?

A. I do not recall any of them.

Q. You do not recall them?

A. No.

Q. Then Elsie Aigner and Jay Bisby, you know, do report in the time when Dean Bennett happens to be away?

A. Yes. That is pretty much of a formality, reporting in the time to the office. The employees punch their own clock cards.

Q. Were any of these departments, or have either of these departments in which Bisby and Aigner are employed been on a piece work basis prior to the reorganization?

2962 A. Aigner's, yes, and also from grinding, which Bisby was doing.

Q. Would they collect statistics for Dean Bennett for the purpose of determining the pay for the various operations?

A. No, sir.

Q. They would not?

A. No.

Q. The employees would report that direct, I suppose?

A. They would report that on their cards.

Mr. Walsh: I see. That is all.

Mr. Swiren: That is all.

Trial Examiner Dudley: You may be excused.

(Witness excused.)

Mr. Block: Mr. Examiner, may I ask a question at this time?

Trial Examiner Dudley: Yes.

Mr. Block: I would like to ask whether or not the subpoenas that previously have been mentioned in the course of these hearings are available to us?

Trial Examiner Dudley: I have received no decision from Washington on that yet.

Mr. Block: We rest.

Mr. Swiren: We rest.

Trial Examiner Dudley: Do you rest your case?

Mr. Swiren: Yes.

2963 Trial Examiner Dudley: You rest, subject to the fact that if they come, you would like to use them?

Mr. Block: We rest. We cannot tell what the future may bring. Under the present conditions, there is nothing else for as to do but rest, and we rest accordingly.

Mr. Walsh: Does Respondent rest?

Mr. Block: Yes.

Mr. Walsh: I would like to put on one other witness.

Trial Examiner Dudley: Very well.

Mr. Walsh: Harold Dreyer.

HAROLD DREYER, recalled as a witness for the National Labor Relations Board, having been previously duly sworn, testified further as follows:

*Direct Examination.*

Q. (By Mr. Walsh.) Your name is Harold Dreyer?

A. Yes.

Q. You have previously been sworn—

A. Yes.

Q. —and testified in this case, is that right?

A. Yes.

Q. I will ask you whether you know Jay Bisby.

A. Yes.

Q. How long have you known Jay Bisby?

A. Between 9 and 10 years.

Q. Does he work in the same department that you did?

2964 A. Yes.

Q. What are his duties?

A. Well, whenever we have to get parts for our machines or anything, we go to Bisby, and he makes them up, or gets them for us. If something goes wrong with the machine, we go to Bisby.

Q. Does he lay out work for production, or anything like that?

A. He has charge of us for laying out work, when we are out of a job. We go to him when Mr. Bennett is on vacation.

Q. He takes charge of the department, when Mr. Bennett is away?

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A. He tells us what to do and what not to do.

Q. In the normal course of operations when you run out of work Mr. Bennett assigns you work, is that right?

A. Yes.

Mr. Swiren: Just a moment, please. I wonder if I can have the reporter read the last two or three questions and answers. I did not hear them.

Mr. Walsh: Certainly.

Mr. Swiren: Just read me the last few questions and answers please, Mr. Reporter.

(The record was read as above recorded.)

Q. (By Mr. Walsh.) At one time did you have a conversation with Mr. Bisby relative to becoming a member of lodge 66?

2965. A. Yes.

Q. What did Mr. Bisby say to you, and what did you say to him?

A. Well, I talked to Mr. Bisby about joining the union, that the fellows had a union down there. I talked to him at his home.

He says, "Harold, I am 100 per cent for you fellows and I am 100 per cent for the union," he says, "but, I can't join."

I says, "Why?" He says, "I am a straw boss," like Elsie Hart. You wouldn't have her in the union." I says, "No, the lodge hasn't considered her as eligible."

So we didn't ask him any more.

Mr. Swiren: I move to strike that answer. I do not see that it makes any difference whether some employee told him that a certain person was eligible or not eligible for membership in the union.

It is ordinary hearsay. It has no probative value. They ought to bring in the man himself to testify to his duties, and not what he may have said to this man.

Trial Examiner Dudley: Objection overruled.

Q. (By Mr. Walsh.) When you referred to "Elsie Hart", did you mean Elsie Hart Aigner?

A. Elsie Aigner.

Mr. Swiren: Objection.

The Witness: I have always called her—

2966 Mr. Keele: Counsel is asking the witness to probe the mind of a third person.

The Witness: I have always called Elsie Aigner "Elsie Hart."

Trial Examiner Dudley: What did you say? Whose name did you mention?

The Witness: I meant Elsie Aigner, but I named it as "Elsie Hart", because that was her maiden name, and I somehow always say "Hart" for "Aigner".

Trial Examiner Dudley: You meant "Elsie Aigner"?

The Witness: I meant "Elsie Aigner."

Mr. Walsh: That is all.

*Cross-Examination.*

Q. (By Mr. Swiren.) How long had you known Bisby before you asked him to join your union?

A. Between 9 and 10 years.

Q. You knew all of his duties by that time pretty well, did you not?

A. Yes.

Q. You thought at that time that it was all right for him to join your union, did you not?

A. I had known—

Q. Do not tell me what you have known. The question calls for a yes or no answer. Did you, or did you not?

A. What was the question?

Mr. Swiren: Read the question.

2967 (The question was read.)

A. I didn't know for sure.

Q. (By Mr. Swiren.) You asked him to join the union, did you not?

A. I went to see him, to see if he did hold that position. He had been demoted there many times.

Q. You just asked him what his position was. You did not ask him to join the union?

A. I asked him to join the union, and then I found out he still held his position as foreman or straw boss.

Q. You did not know that?

A. I had a hazy idea, when times got slack there, that he was straw boss. He was always telling us what to do.

When they demoted him, he still told us what to do. He couldn't get it out of his system.

Q. You asked him to join the union anyhow?

A. I asked him if he would like to join.

Q. When was that?

A. Well, I couldn't say the date.

Q. Give us the year first. Let us make some progress that way.

A. (No answer.)

Q. It is difficult to remember the year, is it?

A. Well, the union started the last part of the year, and the first part of next year.

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2968 Q. You do not know whether it was in 1936 or in 1937, in other words, is that right?

A. I wouldn't say it was in July, or whether it was in January. I would have to think.

Q. Well, you think, and we will wait.

Mr. Keele: Shall we have a recess?

Mr. Swiren: While the witness is thinking, maybe we had better have a recess.

Trial Examiner Dudley: What is the question?

(The question was read.)

Q. (By Mr. Swiren.) Have you had an opportunity to think now?

A. I don't know. I went so many places, and to so many peoples' houses, I can't remember. I went to a great many peoples' houses.

I went to some in September, and I was still going in January.

Q. Do you know when you went to see Jay Bisby?

A. It was during the time we had the union down there.

Q. That is the best answer you can give me? You cannot tell me the approximate month?

A. No.

Q. You do not know whether it was in January, September, or July?

A. I might find out later on.

Q. Give us your best recollection.

2969 A. I would have to see the fellow that went with me. I can't remember.

Q. If we want him, we will call him. Let us have your recollection.

A. I don't remember.

Q. But you remember the conversation very well?

A. I remember the conversation very well.

Q. Do you remember John Kondrath talking to him about joining the union, too?

You know that, do you not?

A. I didn't ask him—

Q. No, no. Let us get a direct answer.

A. I don't remember whether I heard John say anything about it.

Q. You will not swear you did not know John Kondrath asked Bisby to join the union?

A. I will swear I don't remember.

Q. That is the best answer you can give to that question?



A. That is the best I can do.

Q. From the duties Bisby kept doing there, you did not know from time to time whether he was a straw boss or not, so you had to go and find out by asking him, is that right?

A. I went there and asked him to join the union, and found out from what he told me that he was still a straw boss.

Q. You do not know whether that was a good excuse 2970 to get away from joining your union, do you?

A. I wouldn't say so.

Mr. Swiren: That is all.

Mr. Walsh: That is all.

(Witness excused.)

Mr. Walsh: That is all I have. I have nothing further.

Mr. Block: Everybody is all through. Everybody rests, I take it.

Trial Examiner Dudley: Yes.

Mr. Walsh: I am through.

Mr. Block: We are all through.

Trial Examiner Dudley: I will ask for the purpose of the record whether or not Respondent does wish to put in any evidence concerning the existence or non-existence of negotiations between the union and the company immediately after the commence of the sitdown on February 17th, 1937.

Mr. Block: Our answer is that all of the evidence there is has already been introduced on that subject by the Board.

Mr. Swiren: That is all that there is.

Mr. Block: That is all the evidence that there is.

Trial Examiner Dudley: All right.

Mr. Block: I should say, it was introduced by the Board as covered by the record, in that case.

There is nothing further.

Trial Examiner Dudley: At the close of the hearing, 2971 I think the Board had better go over the Board's Exhibits. We have checked the Respondent's Exhibits, and they are all there.

There is one item there—

Mr. Swiren: If the Examiner please, before you adjourn the hearing, we desire to renew our motion to dismiss the complaint. This is a renewal of the same motion that was made to the Examiner at the conclusion of the Board's case, part of which was denied, and part of which was reserved for determination at this time.

Trial Examiner Dudley: At the close of the government's case, you made a motion to dismiss in whole, and also in a

number of parts. As to the number of parts, I reserved decision until the close of both cases.

As I have gone over the evidence, and given some thought to the drafting of my own report, it seems to me more logical, and it would be easier to handle those things in that report.

In that way I can have my report cover the entire case, and make such dismissals as should be made in that report rather than do it piecemeal, by having some orders made here, and some there.

Do you not agree with me on that?

Mr. Swiren: I think that is something the Examiner should decide for himself.

Trial Examiner Dudley: There is no particular point in making them now, is there?

2972 Mr. Swiren: I do not think it makes any difference.

Trial Examiner Dudley: I do not think so.

Mr. Block: Just so it is not a waiver of anything; I assume that our motion has been made and taken under advisement, is that correct?

Trial Examiner Dudley: Yes.

Mr. Block: All right.

Trial Examiner Dudley: Is there anything else we should take up?

Mr. Block: I merely want to make it clear that this is the same motion with respect to the complaint in its entirety and the individual parts referred to in the motion.

Trial Examiner Dudley: Very well. Are there any other matters on which you want rulings?

Mr. Block: There is nothing else.

Trial Examiner Dudley: Off the record.

(Discussion outside the record.)

Trial Examiner Dudley: Let the record show that the respondent's renewal of its application for subpoenas was air-mailed to the National Labor Relations Board at Washington on the evening of June 23rd; that a telegram received this morning indicates they have not as yet received that application, nor had they apparently received the telegrams.

I likewise notified them the application was en route. Let the record further show that I telegraphed the Board in  
2973 Washington again at noon today informing them that the application had been air-mailed on the 23rd, and we are still waiting for their reply.

No reply has been received to date.

Mr. Block: Now, is it clearly understood that the appli-

cation you refer to in your statement is a subsequent application; that there were prior applications?

I just want the record to be clear.

Trial Examiner Dudley: It is a new application entirely, as to one part.

Mr. Block: It does not make any difference, what name you call it by. There were previous applications made, which I think the Examiner said previously in the record were submitted and were denied.

Trial Examiner Dudley: Yes. The history of that is that your original application for most of the subpoenas contained in the new application was made before the hearing started, and was denied by the Board from Washington.

Mr. Block: That is all we want. We want to have that in the record.

Trial Examiner Dudley: Your application as renewed did contain one additional paragraph which had never been made before.

Mr. Block: It also contained some old paragraphs.

Trial Examiner Dudley: That is correct.

2974 Mr. Block: That is correct. I think we understand each other. I would like to merely ask this, as a matter of information: you said something about having communicated with—I do not know who they go to, or where they go. Where do your requests go?

Trial Examiner Dudley: They go to the Board in Washington.

Mr. Block: So there will be no misunderstanding, would it not be well to have those requests here, so as to complete the record up to date?

I do not care so much about the—

Trial Examiner Dudley: I can put that in.

Mr. Block: If you have not any objection, I think it would be well. If you have any objection, do not do it.

However, so the record will show what took place, I think their answer would be pertinent.

Trial Examiner Dudley: Let us do that right now.

Mr. Walsh: I think the original denial is in.

Mr. Keele: That is right.

Mr. Block: That is right.

Trial Examiner Dudley: Here is the telegram we got this morning.

Mr. Block: This telegram we will call—

Mr. Walsh: Let us mark it Board's Exhibit No. 1-R.

Trial Examiner Dudley: It may be received.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 1-R.)

2975 Mr. Block: I hate to bother you again, but it has been suggested that it is probably in order that the Examiner state for the purpose of the record when the last letter concerning the subpoenas was sent, how it was sent, whether or not telegraphic messages were sent on the same day to the Board at Washington, and the substance of those messages.

Trial Examiner Dudley: Do you want to put this in? Maybe this will help you.

Mr. Walsh: Mark this one Board's Exhibit 1-S.

(The document referred to was thereupon received in evidence and marked BOARD'S EXHIBIT NO. 1-S.)

Mr. Block: In addition to Board Exhibit 1-S, there is a letter sent, I understand it, on the same day by air mail, directed to the Board.

Trial Examiner Dudley: Yes.

Mr. Block: That would be dated June 23rd, is that right?

Trial Examiner Dudley: Yes. Now, maybe you would like to have a copy of the telegram which I sent in answer to this one. I do not have a copy of it, but you can get a copy from the telegraph office.

It informed them that you had made this renewal, and we were still waiting for their reply. Is there any objection?

Mr. Block: No objection.

2976 Trial Examiner Dudley: Off the record.  
(Discussion outside the record.)

Trial Examiner Dudley: Mr. Reporter, this will be Board's Exhibit 1-T.

(The document referred to was thereupon received in evidence, and marked BOARD'S EXHIBIT NO. 1-T.)

Trial Examiner Dudley: Immediately after the hearing on the afternoon of June 23rd, at which time Mr. Swiren stated he would prepare a renewal of his application for subpoenas in writing, I sent to the National Labor Relations Board in Washington a telegram of which Board's Exhibit No. 1-R is a carbon copy. At approximately 6:30 P. M. I mailed to the Board at Washington a letter transmitting to the Board the original written renewal of the respondent's application for subpoenas of which Board's Exhibit 1-S is a carbon copy.

That was mailed in the Waukegan Hotel. I saw the postman empty the box at about 8:15. It was sent air mail, prepaid, and properly addressed.

Mr. Swiren: Do you want to add that the letter accompanied it?

Trial Examiner Dudley: It says, "Enclosed you will find", and so forth.

Mr. Block: He has already stated that.

Trial Examiner Dudley: At about 10:30 on the morning of June 25th, I received at the post office a telegram from 2977 the National Labor Relations Board of which Board's Exhibit 1-T is the original.

At noon on June 25th, I sent to the Board a telegram replying to theirs which is Board's Exhibit 1-T, of which Board's Exhibit 1-U is an exact copy, which I do not now have but will procure from the telegraph company and attach to the record.

Mr. Block: At 3:15 on June 25th, there is still no reply

Trial Examiner Dudley: At 3:15 P. M. on June 25th, no reply has been received from the Board at Washington. Under these circumstances, Respondent rests its case without desiring to wait longer for a reply.

Mr. Swiren: No, I do not think that is right. We are not taking any position on that.

Trial Examiner Dudley: Do you wish to rest?

Mr. Block: The record shows we already rested; so has the government.

Mr. Walsh: They rest without waiving any rights to produce additional testimony before the Board at some other time, if the Board grants the request for subpoenas.

Mr. Block: We rest without waiving any rights on that question or any other question.

Trial Examiner Dudley: At 3:15 P. M. Respondent rests its case without waving any of its rights.

Do you or do you not wish to be notified if we get a 2978 ruling on the subpoenas?

Mr. Swiren: We wish to be notified of any rulings by the Board.

Trial Examiner Dudley: Respondent asks to be notified when—

Mr. Swiren: No, we do not ask for anything.

Trial Examiner Dudley: Do you or do you not?

Mr. Swiren: We do not ask for anything.

Trial Examiner Dudley: Respondent makes no request for information concerning the ruling of the Board on the renewal of its application for subpoenas.



Mr. Block: I do not think you should ask us to agree to that. Why not let the situation speak for itself.

Trial Examiner Dudley: I want to know whether you want to be told or not. You must take either one position, or the other position here.

Mr. Block: Let us cross that bridge when we get to it. It is agreed at the present time that neither side has any evidence to introduce.

Trial Examiner Dudley: That is right.

Mr. Block: The case is closed. Both sides have rested. There is nothing further to do.

Trial Examiner Dudley: Yes.

Mr. Block: There has been no answer. As to what will happen, why speculate on that?

2979 Let us cross that bridge when we come to it. The case is closed.

Mr. Keele: The proofs are closed.

Mr. Block: Yes. That is what I mean.

Trial Examiner Dudley: For the record: when I get a reply from the Board, I will notify you by telegraph at your Chicago office.

Mr. Block: You will notify me?

Trial Examiner Dudley: I will notify Mr. Swiren.

Mr. Keele: Certainly.

Mr. Block: We have no objection to that.

Trial Examiner Dudley: Very well. There is one other thing to straighten out before the hearing closes. Let the record show that in the numbering of the Board's Exhibits, the No. 37 was skipped. There is no Board's Exhibit No. 37.

(The documents referred to were thereupon received in evidence, and marked RESPONDENTS' EXHIBITS NOS. 43, 44, 45, and 46.)

The hearing is closed.

(Whereupon at 3:30 O'Clock, P. M., June 25th, 1937, hearing closed.)



2980 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIII-C-80) • •

Room 4, United States Post Office,  
Waukegan, Illinois,  
Friday, June 25, 1937.

The above-entitled matter reconvened for further hearing  
at 5 o'clock, P. M.

Before:

Tilford E. Dudley, Trial Examiner.

Appearances:

William R. Walsh, Regional Attorney, on behalf of the  
National Labor Relations Board.

Levinson, Becker, Peebles & Swiren, Suite 2525, One  
North La Salle Street, Chicago, Illinois, by

Max Swiren, Harold M. Keele, and Sidney M. Block,  
Waukegan, Illinois, on behalf of Fansteel Metallurgi-  
cal Corporation.

Lester Collins, Waukegan, Illinois, on behalf of Lodge  
66, Amalgamated Association of Iron, Steel and Tin  
Workers of North America.

2981 Trial Examiner Dudley: Let the record show that  
we have reconvened at 5 P. M.—

Mr. Swiren: On motion of the Examiner.

Trial Examiner Dudley: On motion of the Examiner.

Mr. Swiren: Yes.

Trial Examiner Dudley: (Continuing) —with all attor-  
neys present. The Examiner will call upon Mr. Walsh to  
announce the ruling of the Board on the Respondent's re-  
newal of its application for subpoenas.

Mr. Walsh: At 3:35 P. M., I received a message to call  
operator 28 in Chicago. I called operator 28 in Chicago and  
was connected with the Regional office of the National Labor  
Relations Board for the 13th region.

I talked with Mr. L. J. Bajork, who advised me that he had  
just received a telephone call from Benedict Wolf, Secretary  
of the National Labor Relations Board, in which Mr. Wolf  
announced that the Board had at that time acted upon the

renewal of the respondent's application for subpoenas and subpoenas duces tecum; that the application was granted in part and denied in part.

I was informed that the Board had granted the application for a subpoena for Robert Pilkington, and had granted the application for a subpoena duces tecum directing Carl Swanson to produce before the Examiner the membership lists and membership cards and membership books of lodge 66 of 2982 the Amalgamated Association of Iron, Steel & Tin Workers.

I was directed to furnish to counsel for the Respondent subpoenas as I have enumerated above. Upon the reconvening of the hearing at 5 o'clock I handed to counsel for the respondent a subpoena duces tecum calling upon Carl Swanson, financial secretary of lodge 66 of the Amalgamated Association of Iron, Steel & Tin Workers, to appear before the Trial Examiner with membership lists, membership cards, and membership books.

I also handed to counsel for the Respondent a subpoena for Robert Pilkington of the United States Department of Labor, Chicago, Illinois, to appear before the Trial Examiner. The above subpoenas were dated June 25th, 1937, and called upon them to appear at 4 P. M. this afternoon.

Further, we wish to announce that the records called for by the subpoenas are now in court and are available for the examination of counsel.

Mr. Block: Which records are available?

Mr. Walsh: The membership cards, the membership lists, and such records as the union has relating to the membership of the lodge are present in court for the examination of counsel.

Mr. Block: Pardon me. May I ask a few questions of counsel, in view of counsel's statement, to clear up the record?

Mr. Walsh: Yes.

2982½ Mr. Block: First, I would like to ask whether these subpoenas that you have just handed us were filled out by yourself since we adjourned the hearing this afternoon?

Mr. Walsh: That is correct.

Mr. Block: They were subpoenas signed in blank which were in your possession, including other subpoenas that were signed in blank, that you had for use in connection with the introduction of your evidence?

Mr. Walsh: That is correct.

Mr. Block: Since the beginning of this hearing on June 3rd?

Mr. Walsh: I do not recall when those subpoenas came into my possession.

Mr. Block: They have been—

Mr. Walsh: During the course of the hearing I have had certain subpoenas in my possession.

Mr. Block: This subpoena does not cover, you do not have here, and have not produced the minute records, books of account, checkbooks, and the correspondence relating to the solicitation of members among the employees of respondent, and relating to the participation of lodge 66, and any of its officers, members or agents in connection with the seizure of the Fansteel buildings on February 17th, is that correct.

Mr. Walsh: Read that question, please.

(The question was read as above recorded.)

2983 Mr. Walsh: That is correct.

Mr. Block: Mr. Pilkington is not present?

Mr. Walsh: Mr. Pilkington is not present.

Mr. Block: He is not present. The subpoena calls for his presence here at 4 o'clock.

Mr. Walsh: That is right.

Mr. Block: On the 25th of June; that is today.

Mr. Walsh: Today.

Mr. Block: He has not been here?

Mr. Walsh: He has not been here.

Mr. Block: He is not within the confines of Lake County?

Mr. Walsh: To my knowledge he is not.

Mr. Block: To your knowledge, of course.

Mr. Walsh: That is correct.

Mr. Block: Now, if the Examiner please, I think we ought to make a few observations if any reply is necessary to the situation that now presents itself.

With your permission, I would like to just make a statement of the Respondent's present attitude on this latest development.

Trial Examiner Dudley: Go ahead, Mr. Block.

Mr. Block: I want to first say, if the Examiner please, that the record discloses that on June 3rd of this month an original application for certain subpoenas was made and presented to the Board through the Examiner. It was made in writing. It was specific. It set forth exactly what was wanted, and was presented to the Regional Director of the National Labor Relations Board first, and then to the Trial Examiner.

That was all done before the commencement of the hearings in this case.

Trial Examiner Dudley: Just a moment right there.

Mr. Block: If I make some misstatement, you may correct me.

Trial Examiner Dudley: Go ahead.

Mr. Block: Those subpoenas called for matters which the Respondent deemed material to the issues which might arise in these hearings.

The matter involved and issues involved are of greatest importance. It is not a question of who is right, or who is wrong. It is a question of trying the case fairly, impartially, and giving both sides a fair and impartial hearing.

The application that was made was prompted by certain beliefs of counsel for the Respondent that that proof was essential in order to properly present all of the facts, and to properly defend the subject matter that is listed in the complaint.

The date upon which the hearing began was June 7th, four days later. Up to that time the subpoenas had not been furnished, supplied, or given to the Respondent or its counsel. Since June 7th there have been at least 142 witnesses called before this Board and examined at great length by both sides.

The record consumed for the Board's case, before the Respondent introduced any testimony, amounted to at least 1,678 pages. The Board closed its case, as I recall it, last Friday, June 18th. At that time, on June 18th, the application for certain subpoenas and certain records was again renewed. The application was renewed on that date, June 18th.

The Respondent did not open its case, and did not begin to introduce its testimony until Monday, June 21st. Twenty-three witnesses have been examined for the Respondent from day to day, and the record has now grown to at least 2,500 pages.

Today all of the proofs were declared closed. We again brought up the question of the subpoenas and asked whether or not these records and the witness in question were available. The reply was, I think, that certain telegrams had been forwarded, and certain telegrams had been received in return, and certain letters had been forwarded.

That was, I think, at 3:15, when the case adjourned. At 3:53 P. M.—that is, 53 minutes after three—after everybody had left the court room, as far as the Respondent is concerned, and the people had dispersed, as far as the Respond-

ent is concerned, we received a notice by telephone that you were going to reopen the hearing at 5 o'clock; that some 2986 order had been entered apparently by the Board with respect to these subpoenas.

Now, it further appears that the subpoenas which have been executed and delivered were made out by Mr. Walsh, who has been here daily. I am not criticizing Mr. Walsh. Do not misunderstand me. However, that is the fact.

He had them, in other words, in his pocket, or in his file throughout this hearing. It was only after the hearing was closed, or proofs declared closed, after the Respondent's counsel had left the court room that it was decided upon in some way or in some manner that it would be perhaps better to furnish counsel for the Respondent with subpoenas.

I want to make one additional observation in that regard. It seems very peculiar to me that throughout this hearing Mr. Walsh had subpoenaed, from his own pocket, so to speak,—that is, by taking subpoenas out of his pocket and inserting the names—witnesses as well as documents, without the slightest restriction, and without being required to ask anybody about it.

During the hearing the Examiner and Mr. Walsh have called upon Mr. Swiren and other counsel and the members of the company for various documents, and have asked them to actually go to work down there and break down certain things that they wanted to be supplied in writing.

There were other requests made, all of which were complied with, the record will show, willingly, and without subpoena. Every bit of information available, that was requested, considering the time we had to comply with the requests, was furnished. We furnished every conceivable record. I do not remember of anything that was denied to the Board and the Examiner.

Now, that, briefly, as we see it, is the situation here. I want to say further, that there is not a court in the land, there is not a J. P. court in the United States that will deny a litigant the right to a subpoena. Now, if you are going to grant a subpoena, it is well to grant it whole-heartedly.

If you are going to grant somebody something, if you are going to attempt to cure somebody's illness, it ought to be done before malignancy develops, and not when they are on their death bed.

This situation is not comparable to anything I think that has happened in any court. I do not know anything about



the reasons. I am making no charges. I am merely stating the facts. The subpoenas were not supplied.

Now, the subpoenas are supplied at this late hour, and if it has become important in somebody's eyes that those subpoenas should have been granted, they should have been granted when they were requested, and when they might have been used, and when they were needed by the Respondents, and not after the case had closed.

If it were error to deny the issuance of the subpoenas today, it would have been far greater error to deny the 2988 issuance of the subpoenas on June 3rd and thereafter. Why?

In the examination of 142 witnesses those particular matters called for might—we believe they would—but we will say they might have been of some assistance to the respondent.

We are deprived of that advantage for no conceivable reason at all. The record is absolutely silent on that. As late as this morning after the Examiner made it clear—I am not charging the Examiner with any bad faith about it; these remarks are purely impersonal—as late as this morning the Examiner received a telegram from which it appears that the Board apparently had not received the information that any application had ever been made for subpoenas.

At the same time the Examiner introduced a letter that he had mailed himself, explaining the subject matter, including the renewed application, and referring to the old application, and again today wired, and still no subpoenas appeared. That is the situation here.

In view of that fact, and in view of the final act of generosity here, of issuing subpoenas to a litigant who needed them to defend a lawsuit, and then only granting them in part, on certain conditions, it is our position that the ill you are attempting to cure is being cured too late, and that it cannot remedy the situation.

You have only granted it in part, as it is. In other 2989 words, we are not allowed to decide for ourselves what evidence we will offer. You have made available to us certain records, documents and correspondence which we should have had the benefit of at least examining, and deciding for ourselves whether we wanted to offer them in evidence, or whether we did not.

There has been some discussion in some of the letters here as to the relevancy and materiality of some of these papers and documents. That would have been a proper matter for



the Examiner and the Board later, perhaps, to have considered.

When these documents were offered, there would have been nothing in the procedure that would have deprived you of the right to deny their admission.

However, to deny the Respondent the right to prepare its defense on any subject, on any one point we think is a gross injustice, and at this hour the granting of this can be of no benefit to us whatever for the reason we have mentioned.

We stand, therefore, on the record.

Trial Examiner Dudley: As far as I know, you now have in your possession, or at least counsel for Respondent have in their possession all of the subpoenas which have been authorized by the Board. Those subpoenas called for certain documents and records of the union known as lodge 66.

I understand that all of the records so called for are now here in court and ready for your examination, which you can make either this afternoon or at your earliest convenience.

2990 One of the subpoenas is directed to Mr. Pilkington, whom I do not know. However, the Examiner stands ready to give ample opportunity for the procurement of Mr. Pilkington at a meeting which we could have here tomorrow, or at Chicago, or at any other place that is convenient to the parties.

So, as far as the Examiner is concerned, all of the material called for by the subpoenas is here available to you at your own convenience, and Mr. Pilkington will be made available if he can be found and procured. I do not know if we can find that out by telephone or telegraph.

Do I understand that counsel for the Respondent do not wish to avail themselves of any of these subpoenas or any of the material that has been procured for them pursuant to those subpoenas?

Mr. Block: We will not enter into any such understanding. Our position is fully explained by the statement I have made. The matters which are being tendered to us at this late date and hour are only part of the matters which we requested.

The witnesses whom we probably would have examined, had we had possession of these records, have already testified. There have been at least 142. The matter is of no benefit at this time at all, no conceivable benefit at this time, as we understand and see the case.

It is of no benefit whatsoever.

Trial Examiner Dudley: Do you wish to examine the 2991 records of the union that have been brought in pursuant to these subpoenas?

Mr. Block: We do not want to add anything further to our statement, except what we have said. I do not think that you ought to question us any further about the matter. We have made our position definite and clear on all points. We have to stand or fall on what our position is. If we are wrong in taking the position that we have, that we ought to have all of the information rather than part of it, if we are wrong that we should have had this information when we needed it, of course we cannot prevail in our point of view.

Trial Examiner Dudley: Then you do not have any additional testimony, documentary or otherwise to offer. You do not wish to make use of the subpoenas; as far as you are concerned, the evidence is in, and we may now close the hearing finally, is that correct?

Mr. Block: Again I will say that our answer is that the case closed at 3:15 P. M. this afternoon, and the subsequent events have been answered by our statement.

Mr. Walsh: At this time I will offer in evidence the subpoenas, if they are not desired. As I understand Mr. Block's position, he must stand or fall upon his statement. Therefore, I will offer for the record these subpoenas.

Mr. Block: If I said that we will stand or fall on my statement, I meant, of course—

2992 Mr. Walsh: I understand.

Mr. Block: (Continuing.) —my statement, and the record in this case.

Mr. Walsh: Certainly. I did not want to restrict you.

Mr. Block: Very well.

Mr. Walsh: Mr. Reporter, will you mark these as exhibits.

Trial Examiner Dudley: Yes, let them be marked.

Mr. Block: Before you do that, let the record show that these subpoenas were handed here in the courtroom to counsel when counsel entered, which was about 5 o'clock, or shortly before, or after.

Mr. Walsh: As a matter of fact, it was about five minutes to five.

Trial Examiner Dudley: Do you wish to object to the introduction of the subpoenas as exhibits?

Mr. Block: As I understand it, you want to use them for the purpose of the record.

Mr. Walsh: Just to make them formally part of the record, yes.

Mr. Block: For that purpose we see no reason for objecting.

Mr. Walsh: That is the only reason for doing it.

Trial Examiner Dudley: Exhibit No. 1-U is to be supplied. These will be marked 1-V and 1-W.

(Whereupon, the documents referred to were received 2993 in evidence and marked BOARD'S EXHIBITS NOS. 1-V and 1-W.)

Trial Examiner Dudley: Are there any other witnesses, documents, arguments, remarks, observations or anything else anybody wants to put in this record.

Mr. Block: To whom is that remark addressed?

Trial Examiner Dudley: That is addressed to all attorneys.

Mr. Block: As I understood it, the case closed at 3:15 P. M.

Mr. Walsh: I have nothing further.

Mr. Block: I have nothing further.

Trial Examiner Dudley: I will announce the hearing officially and finally closed.

(Whereupon, at 5:30 o'clock P. M., June 25, 1937, hearing closed.)

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## BOARD EXHIBIT NO. 1-J.

6-14-37.

Division of Economic Research  
NATIONAL LABOR RELATIONS BOARD

Washington, D. C.  
June 4, 1937

Table 1.—Rank of Chemicals Industry in the United States.

	Number of Wage Earners	Value of Products
Rank of "Chemicals not Else- where Classified" Industry..	27	18
for Chemicals Industry...	53,190	\$ 476,503,000
for All Industries.....	6,055,736	\$31,358,840,000

Source: U. S. Department of Commerce, Bureau of the  
Census, Biennial Census of Manufactures: 1933, United States  
Government Printing Office, Washington, D. C., pp. 33-36.

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## BOARD EXHIBIT NO. 1-K.

6-14-37.

Division of Economic Research  
NATIONAL LABOR RELATIONS BOARD

Washington, D. C.  
June 4, 1937

Table 2.—Rank of Chemicals Industry in Illinois.

	Number of Wage Earners	Value of Products
Rank of "Chemicals not Else- where Classified" Industry..	27	18
for Chemicals Industry...	3,448	\$ 30,235,286
for All Industries.....	420,334	\$ 2,502,175,233

Source: U. S. Department of Commerce, Bureau of the  
Census, Census of Manufactures: 1933—Illinois, Summary by  
Industries, Washington, D. C., March 5, 1935.

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## BOARD EXHIBIT NO. 1-L.

6-14-37.

Division of Economic Research

NATIONAL LABOR RELATIONS BOARD

Washington, D. C.

June 4, 1937

Table 3.—The Chemicals Industry: Rank of Illinois.

	Number of Wage Earners	Value of Products
Rank of Illinois among states manufacturing chemical ....	5	5
for Illinois .....	3,448	\$ 30,285,000
for the United States.....	53,190	\$ 476,503,000

Source: U. S. Dept. of Commerce, Bureau of the Census,  
Biennial Census of Manufactures: 1933, Government Printing  
office, Washington, D. C., 1936, pp. 316-7.

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## BOARD EXHIBIT NO. 1-M.

6-14-37.

Division of Economic Research

NATIONAL LABOR RELATIONS BOARD

Washington, D. C.

June 4, 1937

Table 4.—Sources of the Ores of Rare Metals.

Metal	Sources of Ore (1935)
Tungsten .....	Arizona, California, Colorado, Idaho, Montana, Nevada, Washington South Dakota (7,681 lbs.); Ni- geria (1,184,315 lbs.), Austra- lia (6083 lbs.)
Tantalum and Columbium..	Arizona, Colorado, Nevada, New Mexico

Source: United States Department of Interior, Bureau of  
Mines, Minerals Yearbook, 1936, Government Printing Office,  
Washington, D. C., 1936, pp. 443-455, 535-537.

## BOARD EXHIBIT NO. 1-N.

6-14-37.

Division of Economic Research

NATIONAL LABOR RELATIONS BOARD

Washington, D. C.

June 4, 1937

Table 5.—The Flow of the Products of the Chemical Industry.

State	Chemicals		Motor Vehicles Bodies and Parts	
	Value of Products	% of U. S. Total	Value of Products	% of U. S. Total
Illinois .....	\$ 36,394,430	5.4	\$ 25,064,697	1.6
New Jersey .....	138,128,726	20.6	6,113,556	.4
New York .....	123,496,822	18.5	74,073,417	4.8
Pennsylvania .....	54,611,444	8.2	29,311,147	1.9
Total, 4 states.....	\$352,631,422	52.7	\$ 134,562,817	8.7
Total, United States.....	\$668,697,448	100.0	\$1,550,924,169	100.0
Michigan .....	\$ 45,817,064	6.9	\$1,018,596,515	65.7

State	Chemicals		Radio Apparatus	
	Value of Products	% of U. S. Total	Value of Products	% of U. S. Total
Illinois .....	\$ 36,394,430	5.4	\$ 22,818,000	18.7
Pennsylvania .....	54,611,444	8.2	28,461,000	23.4
Total, 2 states.....	\$ 91,005,874	13.6	\$ 51,279,000	42.1
Total, United States.....	\$668,697,448	100.0	\$ 121,802,000	100.0

Sources: United States Department of Commerce, Bureau of the Census, Census of Manufactures, 1935: Motor Vehicle Bodies and Parts—Summary by States, May 5, 1937; Chemicals Not Elsewhere Classified—Summary by States, May 6, 1937. Census of Manufactures, 1933, Government Printing Office, Washington, D. C., 1936, pp. 577-578.



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BOARD EXHIBIT 1-R.

(Form of Postal Telegraph)

Send the following message, subject to the term on back hereof, which are hereby agreed to

Waukegan 6/23/1937

To Benedict Wolf, Secretary  
Nat'l Labor Relations Board, Washington, D. C.

Regarding Fansteel case respondent rested today but reversed motion for subpoenas paragraph three four original motion Written motion in airmail.

Tilford E. Dudley

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BOARD EXHIBIT 1-S.

Waukegan, Illinois, June 23, 1937.

Mr. Benedict Wolf, Secretary  
National Labor Relations Board  
Washington, D. C.

In re Fansteel Metallurgical Corporation  
Case XIII-C-80

Dear Mr. Wolf:

Enclosed you will find a carbon copy of the respondent's renewal of application for subpoenas which was delivered to me at 5:30 P. M. to-day, June 23, 1937.

Paragraph 1 referring to Pilkington is self-explanatory except that Mr. Swiren informed me that Pilkington's whereabouts may be unknown at this time but that he had been in Chicago a few days ago. I see no harm in issuing this subpoena but the purpose of the proof has not been included in any of the pleadings submitted to date and its relevancy is questionable.

Paragraph 2 is a renewal of a previous application. By this information respondent hopes to prove that the applications for membership (which have been produced in court) expired, or for some other reason were not sufficient to render union membership valid at the particular dates in controversy. I can see no harm to either party in issuing this subpoena but believe that probably all of the relevant material has already been produced in court.

Paragraph 3 is not a renewal of the original application but is a new application being made at this time for records of Swanson. This is for practically the same material required in paragraph 2 except for the charter and by-laws of the union. Again this would seem to involve no harm to either party but is of questionable relevancy.

The second purpose of seeking evidence as indicated on the application is an attempt to prove that the union was a party to a conspiracy to the seizure of the respondent's plant and that, therefore, every membr of the union is responsible for this seizure regardless of whether or not they participated in the strike itself. This sounds much like a "fishing expedition" inasmuch as evidence has already been introduced showing the connection of every person mentioned in the complaint with the strike in some manner or the other.

144 The third reason given concerns eligibility and likewise seems immaterial inasmuch as the evidence submitted to-day shows that the appropriate unit and the eligibility limits of the union include all productive workers at the plant, excluding administrative, clerical and supervisory employees. The respondent does not claim that this should be made larger, and, therefore, has nothing more to prove.

Generally speaking, the issuance of these subpoenas would certainly do not harm to any party concerned and would simply involve the taking of some additional testimony. I suspect that if the subpoenas are not granted, the respondent will continually raise a great deal of fuss about them as they have already done throughout this hearing. For this reason it might be expedient to issue the subpoenas. I can not say that the matter is otherwise of any importance one way or the other. We hope to hear from you by noon on June 24 inasmuch as the respondent has now rested, except for this material, and the regional attorney will probably complete his case by noon and we will then be ready to adjourn as soon as we know your decision on these points.

Sincerely yours,

Tilford E. Dudley,  
*Trial Examiner.*

TED:NL  
Enc.

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**BOARD EXHIBIT 1-T.**

(Form of Western Union Telegram)

Received at 129 Water St., Waukegan, Ill. Telephone  
Majestic 4321.

1937 Jun 24 P M 3 29

C196 27 Govt—Washington DC 24 405P

Tilford E Dudley, Trial Examiner

Fansteel Metallurgical Hearing Room Four New U. S. Post  
Office Bldg.

Re Fansteel Company Received Permission to Renew Its  
Request for Subpoena But Has Not Done So to Date If Com-  
pany Still Desires Subpoenas It Should Renew Application.  
National Labor Relations Board Benedict Wolf.

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**BOARD EXHIBIT 1-U.**

(Form of Western Union Telegram)

1937 Jun 25 PM 12 37

To Benedict Wolf, Secretary

Street and No. National Labor Relations Board  
Place Washington, D. C.

Rated Fansteel Company reversed application for sub-  
poenas Written application airmailed you June twenty third  
Am awaiting your reply.

Tilford E. Dudley  
Trial Examiner.

## BOARD EXHIBIT NO. 2.

6/9/37

## UNITED STATES OF AMERICA

## Securities and Exchange Commission

I, Francis P. Brassor, Secretary of the Securities and Exchange Commission, Washington, D. C., which Commission was created by the Securities Exchange Act of 1934 (15 U. S. C. A., Sec. 78a et seq), and official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission, pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, do hereby certify that attached is a full, true and complete copy of:

Facing sheet, and pages 1, 6 and 40 of annual report on Form 10-K for fiscal year ended December 31, 1935 filed April 27, 1936; and facing sheet, and pages 1, 7 and 41 of annual report on Form 10-K for fiscal year ended December 31, 1936 filed April 26, 1937 with this Commission by Fansteel Metallurgical Corporation, pursuant to the provisions of the Securities Exchange Act of 1934 as amended, under File No. 1-2331.

In witness whereof I have hereunto subscribed my name and caused the seal of the Securities and Exchange Commission to be affixed this 13th day of May, A. D. 1937, at Washington, D. C.

(Seal)

Francis P. Brassor,  
*Secretary.*

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## SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 10-K

For Corporations

Annual Report

For Fiscal Year Ended December 31, 1935

Fansteel Metallurgical Corporation

(Name of Registrant)

North Chicago, Illinois

(Address of Principal Executive Offices)

New York, March 13, 1917

(The State or Other Sovereign Power under which Incorporated and Date of Incorporation)

Perpetual

(Date of Termination of Charter)

First Tuesday in April of Each Year in New York City

(Date and Place of Annual Meetings)

(Stamp) Sec & Exchan Comm Recd 1st Mail Apr 27  
1936 Docket Mail & Files.

## Table of Securities Registered

## Securities Registered

Amount as of close of Fiscal Year

Title of Issue	Amount as to which registra- tion is effective	Amount to be registered upon notice of issuance	Names of Exchanges on which Registered
Common Stock	175,921 shares	58,677 shares	New York Curb Exchange

Name and address of person authorized to receive notices  
and communications from the Securities and Exchange Com-  
mission:E. F. Radke, Secretary  
North Chicago, Illinois.

The information required to be given under the items herein set forth is more specifically defined in the "Instruction Book for Form 10-K for Corporations".

The Instruction Book also sets forth requirements as to exhibits which are to accompany the annual report.

### Affiliations

1. List the following and indicate the respective percentages of voting power, or other basis of control, as required by the Instructions:

(a) All subsidiaries of the registrant.		
(b) All parents of the registrant.		
(a) All subsidiaries of Fansteel Metallurgical Corporation.		Percentage of Voting Power
Tantalum Corporation of America	(1)	100.00%
Ramet Corporation of America	(1)	100.00%
Vascoloy-Ramet Corporation	(2)	57.77%
Vascoloy-Ramet Corporation	(2)	8.88%
(b) None.		

Notes: (1) Included in consolidated financial statements.

(2) Separate financial statements submitted herein.

### Management and Control

2. List the names and addresses of all directors and officers of the registrant. Indicate the office or offices held. If any person is both an officer and director, so state.

Name	Address	Office
Wm. Blair Baggeley	19 Warwick Avenue, Winnetka, Illinois	Director
Benjamin V. Becker	179 Lake Shore Drive, Chicago, Illinois	Director



(a) Options aggregating 11,000 shares of Common Stock, without par value.

(b) The option price is Five Dollars (\$5.00) per share; the expiration date is December 31, 1937. There is no condition other than the payment of the option price.

(c) The holders of the options are as follows:

William Blair Baggaley

19 Warwick Avenue

Winnetka, Illinois

Option for 1,000 shares of Common Stock, without par value

Robert J. Aitchison

595 Lincoln Avenue

Glencoe, Illinois

Option for 10,000 shares of Common Stock, without par value

(d) The option to William Blair Baggaley was granted in consideration of advisory sales and promotional services rendered by Mr. Baggaley to the registrant.

The option to Robert J. Aitchison was granted in consideration of his acceptance of position as Vice-President and General Manager of the registrant and the giving up by him of his private accounting practice.

### Business

7. Describe briefly the material changes which may have occurred within the fiscal year in the general character of the business done by the registrant and its subsidiaries.

There have been no material changes within the fiscal year in the general character of the business of the registrant and its subsidiaries.

### Financial Statements

8. Submit financial statements in accordance with the Instructions and the Rules and Regulations of the Commission supplementary thereto.

The following financial statements and schedules, certified by Wm. H. Thompson & Co., Certified Public Accountants, Auditors for the registrant, are submitted herewith:

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— 40 —

- (h) Schedule "VII"—Reserves.
- (i) Schedule "VIII"—Capital Stock.
- (j) Schedule "IX"—Surplus.
- (k) Schedule "X"—Detail as to maintenance and repairs, etc.
- (l) Schedule "XI"—Income from Dividends.
- (2) The following exhibits:  
All exhibits are inapplicable.

This annual report is filed subject to the instructions contained in the Instruction Book for Form 10-K for Corporations, and amendments numbered:

### Signature

In pursuance of the requirements of the Securities Exchange Act of 1934, the registrant, Fansteel Metallurgical Corporation, a corporation organized and existing under the laws of New York, has duly caused this annual report to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of Chicago and State of Illinois on the 23rd day of April, A. D. 1936.

Fansteel Metallurgical Corporation

By R. J. Aitchison,

By R. J. Aitchison,

*Vice-President*

Attest:

E. F. Radke,

E. F. Radke,

*Secretary*

(Stamp) Sec & Exhan Comm Recd 1st Mail Apr 27 1936  
Docket Mail & Files.

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## SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

Form 10-K

For Corporations

Annual Report

For Fiscal Year Ended December 31, 1936

Fansteel Metallurgical Corporation

(Name of Registrant)

North Chicago, Illinois

(Address of Principal Executive Offices)

New York, March 13, 1917

(The State or Other Sovereign Power under which Incorporated and Date of Incorporation)

Perpetual

(Date of Termination of Charter)

First Tuesday in April of Each Year in New York City

(Date and Place of Annual Meetings)

(Stamp) Sec & Exchan Comm Recd 1st Mail Apr 26 1937  
Docket Mail & Files.

## Table of Securities Registered

## Securities Registered

Amount as of close of Fiscal Year

Title of Issue	Amount as to which registra- tion is effective	Amount to be registered upon notice of issuance	Names of Exchanges on which Registered
Common Stock	195,932 shares	38,000 shares	New York Curb Exchange

Name and address of person authorized to receive notices  
and communications from the Securities and Exchange Com-  
mission:E. F. Radke, Secretary  
North Chicago, Illinois.

The information required to be given under the items herein set forth is more specifically defined in the "Instruction Book for Form 10-K for Corporations".

The Instruction Book also sets forth requirements as to exhibits which are to accompany the annual report.

### Affiliations

1. List the following and indicate the respective percentages of voting power, or other basis of control, as required by the Instructions:

(a) All subsidiaries of the registrant.		
(b) All parents of the registrant.		
(a) All subsidiaries of Fansteel Metallurgical Corporation.		Percentage of Voting Power
Tantalum Corporation of America	(1)	100.00%
Ramet Corporation of America	(1)	100.00%
Vascoloy-Ramet Corporation	(2)	57.77%
Fansteel Mining Corporation	(1)	100.00%
Vascoloy-Ramet Corporation	(2)	8.88%
(b) None.		

Notes: (1) Included in consolidated financial statements.

(2) Separate financial statements submitted herein.

### Management and Control

2. List the names and addresses of all directors and officers of the registrant. Indicate the office or offices held. If any person is both an officer and director, so state.

Name	Address	Office
Robert J. Aitchison	595 Lincoln Avenue, Glencoe, Illinois	President and Director
Wm. Blair Baggaley	19 Warwick Avenue, Winnetka, Illinois	Director

(Stamp) Sec & Exchan Comm Recd 1st Mail Apr 26 1937  
Docket Mail & Files.

The option for 10,000 shares of Common Stock, without par value, at \$5.00 per share, was granted to Robert J. Aitchison on February 15, 1932 in consideration of his acceptance of the position of Vice-President and General Manager of the registrant and the giving up by him of his private accounting practice.

### Business

7. Describe briefly the material changes which may have occurred within the fiscal year in the general character of the business done by the registrant and its subsidiaries.

There have been no material changes within the fiscal year in the general character of the business done by the registrant and its subsidiaries.

### Financial Statements

8. Submit financial statements in accordance with the Instructions and the Rules and Regulations of the Commission supplementary thereto.

The following financial statements and schedules, certified by Wm. H. Thompson & Co., Certified Public Accountants, auditors for the registrant, are submitted herewith:

(1) Consolidated balance sheet of Fansteel Metallurgical Corporation and its subsidiaries, Ramet Corporation of America, Tantalum Corporation of America and Fansteel Mining Corporation, as at December 31, 1936.

Consolidating balance sheet of Fansteel Metallurgical Corporation and its subsidiaries, Ramet Corporation of America, Tantalum Corporation of America and Fansteel Mining Corporation, as at December 31, 1936.

(2) Consolidating statement of profit and loss of Fansteel Metallurgical Corporation and its subsidiaries, Ramet Corporation of America, Tantalum Corporation of America and Fansteel Mining Corporation, for the year ended December 31, 1936.

(3) Schedules accompanying consolidated and consolidating balance sheets, as follows:

(a) Schedule "I"—Investments in Securities of Affiliates.

Corporations, and amendments numbered:

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Signature

In pursuance of the requirements of the Securities Exchange Act of 1934, the registrant, Fansteel Metallurgical Corporation, a corporation organized and existing under the laws of New York, has duly caused this annual report to be signed on its behalf by the undersigned, thereunto duly authorized, and its seal to be hereunto affixed and attested, all in the City of Chicago and State of Illinois on the 23rd day of April, A. D. 1937.

Fansteel Metallurgical Corporation

By Robert J. Aitchison,

Robert J. Aitchison,

*President*

Attest:

E. F. Radke,

E. F. Radke,

*Secretary.*

BOARD EXHIBIT NO. 3.

6/9/37

UNITED STATES OF AMERICA

SECURITIES AND EXCHANGE COMMISSION

I, Francis P. Brasseur, Secretary of the Securities and Exchange Commission, Washington, D. C., which Commission was created by the Securities Exchange Act of 1934 (15 U. S. C. A., Sec. 78a et seq), and official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission, pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, do hereby certify that attached is a full, true and complete copy of:

Facing sheet, pages 1 to 4, inclusive, and page 21 of registration statement filed with this Commission December 24, 1935 by Fansteel Metallurgical Corporation, pursuant to the



provisions of the Securities Exchange Act of 1934 as amended, under File No. 1-2331.

In witness whereof I have hereunto subscribed my name and caused the seal of the Securities and Exchange Commission to be affixed this 13th day of May, A. D. 1937, at Washington, D. C.

Francis P. Brassor,  
*Secretary.*

(Seal)

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File No. ....

**Form 10**

**For Corporations**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D. C.**

**APPLICATION FOR REGISTRATION PURSUANT TO  
SECTION 12 (B) AND (C) OF THE SECURITIES EX-  
CHANGE ACT OF 1934**

**Fansteel Metallurgical Corporation**  
(Name of registrant)

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**Securities to Be Registered**

Title of Issue, or Issues	Amount	
	Issued	Unissued
Common Stock, without par value		47,677 shares*

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**Names of Exchanges on Which Registration Applied For**  
**New York Curb Exchange**

Name and address of person authorized to receive notices and communications from the Securities and Exchange Commission:

**E. F. Radke, Secretary**  
**North Chicago, Illinois**

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\* In addition to 175,921 issued shares and 11,000 unissued shares previously listed upon the New York Curb Exchange and registered on Form 10 File No. 1-2138.

The information required to be given under the items hereinbelow set forth is more specifically defined in the "Instruction Book for Form 10, For Corporations."

### Organization

1. Exact name of registrant: Fansteel Metallurgical Corporation.
2. Address of principal executive offices: North Chicago, Illinois.
3. The State or other sovereign power under which incorporated: State of New York.
4. Date of incorporation: March 13, 1917.
5. Date of termination of charter: Duration of charter is perpetual.
6. Date upon which fiscal year ends: December 31st of each calendar year.
7. Date and place of annual meetings: First Tuesday in April at Room 332, No. 120 Broadway, in the Borough of Manhattan, City and State of New York.
8. Name all securities exchanges upon which each class of securities of the registrant is temporarily registered.  
None. The Common Stock of the registrant is permanently registered upon the New York Curb Exchange.
9. Name all securities exchanges upon which each class of securities registered hereunder is to be registered:  
New York Curb Exchange.

10. List the following and indicate the respective percentages of voting power as required by the instructions:

(a) All subsidiaries of the registrant.

(b) All parents of the registrant.

(a) All subsidiaries of Fansteel Metallurgical Corporation.

Percentage of  
Voting Power.

Tantalum Corporation of America

100.00%

Ramet Corporation of America

100.00%

Vascoloy-Ramet

Corporation

57.77%

Vascoloy-Ramet Corporation

8.88%

(b) None.

## History and Business

11. Describe briefly the general character of the business done by the registrant and its subsidiaries, and any substantial changes which may have occurred in the general character of the business within the preceding 5 years:

The registrant and its subsidiaries are now, and have during the last five years been, engaged in the development, refinement and manufacture of non-ferrous rare metals, including tantalum, columbium, tungsten, molybdenum, caesium and rubidium, and products thereof. The business engaged in includes (a) the extraction of such rare metals from their ores or commercial intermediate products by chemical, metallurgical and electro-metallurgical processes, many of which are either patented or secret; (b) the manufacture of rare metals into useful commercial form; (c) the manufacture of chemical compounds of the metals; (d) the manufacture of alloys into which the rare metals are incorporated; and (e) the fabrication of apparatus, equipment or parts made in whole or in part from such rare metals or their alloys. Among the fabricated products manufactured from such rare metals by the registrant are contact points for ignition systems, varied tantalum parts for chemical and rayon industries, molybdenum and special alloy wires for use in vacuum tubes, radios and commercial radio tubes, battery chargers and rectifiers. A large research laboratory is maintained for the further development of both the processes and products of the registrant and the extension of their uses. The company conducts its own sales organization, except in certain foreign countries where it operates through exclusive sales agents.

The Vascoloy-Ramet Corporation, one of the registrant's subsidiaries, is engaged in the manufacture of machine cutting tools and drawing dies and the manufacture of "Vascoloy-Ramet," a hard cutting carbide for use in such tools. The principal sales of the Vascoloy-Ramet Corporation are now made through Vanadium-Alloys Steel Company, as sales representative.

The changes which have occurred in the business of the registrant and its subsidiaries are as follows: During 1933, Balkeit Radio Company, a wholly owned subsidiary engaged in the manufacture and sale of radio receiving sets, was liquidated through bankruptcy proceedings. From 1930 to 1932, extensive development was had and patents obtained on connection with hard cutting carbide tools. Their patents were assigned to Ramet Corporation of America, which inaug-

urated the marketing of such hard cutting carbide tools. The business thus developed was taken over and carried on by Vascoloy-Ramet Corporation, a controlled but not wholly owned subsidiary, on October 1, 1933.

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### Property

12. State briefly the general character and location of the principal plants and other important units of the registrant and its subsidiaries. If any principal plant or important unit is not held in fee, so state, and describe how held:

The plant and offices of the registrant are located at North Chicago, Illinois, occupying 7½ acres, extending along 22nd Street between the Chicago, North Shore & Milwaukee Railroad tracks and Commonwealth Avenue. The plant is owned in fee. All of the metallurgical and fabricating activities are carried on at the North Chicago plant. Included in the plant are the chemical building, two furnace and reduction buildings, a laboratory, machine shop, wire drawing department, steel and brick warehouses and storage sheds. The plant of the Vascoloy-Ramet Corporation is located in one of the buildings of the registrant.

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This application is filed subject to the instructions contained in the Instruction Book for Form 10 for Corporations, as approved under date of December 20, 1934, and as amended under dates of February 12 and 15, March 12, 15 and 30, April 4, 10, 19 and 24, and May 7, 1935.

Upon the basis of the statements and documents comprising this application the undersigned hereby applies for registration pursuant to section 12 (b) and (c) of the Securities Exchange Act of 1934 of the securities specified on the facing sheet of this application on the respective exchanges there specified.

December 23, 1935

(Date)

Fansteel Metallurgical Corporation,  
(Signature of registrant)

By (Illegible)  
(Name)

(Seal)

Attest:

E. F. Radke,

(Name)

Secretary.

(Title)

President.  
(Title)

## BOARD EXHIBIT NO. 4.

6/9/37

167 Standard Corporation Records Page 1019

(a)1933 .....	64,956	17,604	5,749
§1932 .....	74,149	18,285	6,008
†1931 .....	117,910	24,894	8,218
1930 .....	116,579	19,787	4,805
†1929 .....	62,854	19,145	2,387
1928 .....	125,173	18,436	8,292

\* Earn. per Share  
\$7 Pfd. Com.

	Net Inc. \$	\$7 Pfd. \$	Com. \$
(a)1935 .....	47,690	6.05	d0.16
(a)1934 .....	40,782	5.18	d0.30
(a)1933 .....	37,726	4.79	d0.36
§1932 .....	45,905	5.83	d0.19
†1931 .....	79,629	10.11	0.13
1930 .....	70,553	8.95	0.32
†1929 .....	31,740	4.03	d0.48
1928 .....	98,445	12.49	0.90

\*Based on 7,879 preferred and 48,020 common shares.

†Includes 53 weeks ended Aug. 30.

†69 weeks ended Dec. 26, 1931.

§53 weeks ended Dec. 31, 1932.

(a)Year ended approximately Dec. 31.

dDeficit.

## Income Account, Years Ended:

	Dec. 28,'35	Dec. 29,'34
Oper. income .....	\$ 70,138	\$ 64,895
Other income .....	1,735	1,581
Total income .....	71,873	66,476
Depreciation .....	16,740	16,740
Amort. of sound equip. ....	.....	2,512
Federal taxes .....	7,443	6,442
Net income .....	47,690	40,782
Pfd. divs. ....	31,516	55,153
Surp. additions:		
Add'l. rent rev. pr. year .....	8,370	.....
Prov. for Provinc. inc. tax of pr. yr. not required .....	472	.....
Tax adj. ....	.....	426

## Surp. deductions:

Propor. of add'l. theatre oper. expends. for pr. yr.....	2,211	.....
Head Office salaries pr. yr.....	500	.....
Tax adj. pr. yrs.....	489	.....
Prov. for Dom. inc. tax on add'l. net rev. pr. yr.....	764	.....
Incr. in surp. for year.....	21,052	d13,945
Surp. from prev. year.....	26,827	40,772
P. & L. surp.....	47,879	26,827
*Earn. per Share		
7% pfd. stock.....	\$6.05	\$5.18
Common stock.....	d0.16	d0.30

\*Based on 7,879 preferred and 48,020 common shares.  
d Deficit.

## Comparative Balance Sheet:

Assets—	Dec. 28, '35	Dec. 29, '34
Land, bldgs., eqp., etc.....	\$1,067,967	\$1,067,967
Less res. for depr.....	437,017	420,277
Land, bldgs., etc. (net).....	\$ 630,950	\$ 647,690
Gdwl., franch., etc.....	1,310,188	1,310,188
Current Assets—		
Cash .....	63,607	28,390
Mktble. securities (cost).....	34,706	34,706
Accr. rents & int. rec.....	5,785	4,599
Co.'s shr. earns. of theatres subj. to Famous Players Canadian Corp. agreement .....	7,782	10,455
Tot. curr. assets.....	\$ 111,880	\$ 78,150
Total assets .....	\$2,053,018	\$2,036,028



## Liabilities—

Pfd. stk. (par \$100).....	\$ 787,900	\$ 787,900
Com. stk. (par \$25).....	1,200,500	1,200,500
P. & L. surplus.....	47,879	26,827

## Current Liabilities—

Accts. pay. & accr.....	130	115
Tax reserve .....	8,207	6,375
Divs. pay. ....	7,879	13,788
Unclaimed divs. ....	523	523

Tot. curr. liab.....	\$ 16,739	\$ 20,801
----------------------	-----------	-----------

Total liabilities .....	\$2,053,018	\$2,036,028
-------------------------	-------------	-------------

*Net wkg. cap.....	\$ 95,141	\$ 57,349
--------------------	-----------	-----------

Equity per pfd. share.....	\$92.16	\$89.48
----------------------------	---------	---------

\*Based on current assets and current liabilities as above.

†Market value \$35,350 in 1935 and \$35,613 in 1934.

Certification of Accounts—Balance sheets certified by Gunn, Roberts & Co., Chartered Accountants.

## Management.

## Officers.

J. P. Bickell, President

R. W. Bolstad, Treas.

N. G. Barrow, Secy.

## Directors.

J. P. Bickell

W. D. Ross

C. W. Baud

A. B. Coleman

H. H. Champ

J. P. Stedman

Annual Meeting—in April.

Fiscal Year ends on last Saturday in December.

Office—1205 Royal Bank Building, Toronto, Ont.

**Fansteel Metallurgical Corp.**  
(Formerly Fansteel Products Co., Inc.)

**History.**

Originally incorporated under Illinois laws in 1907 as Pfanstiehl Electrical Laboratories; reincorporated in 1914, in Delaware as Pfanstiehl Co., and again in 1917, in New York as Pfanstiehl Co., Inc. Name changed to Fansteel Products Co., Inc., July 5, 1918, and to present title Aug. 28, 1935.

**Acquisitions and Corporate Changes.**

Predecessor formed, or was instrumental in formation of, following companies:

Tungsten Manufacturing Co., Ltd., of London, England, formed in 1920 to purchase Fansteel foreign patent right relating to tungsten contacts and manufacture thereof.

Balkeit Radio Co., organized on Feb. 1, 1929, to take over manufacture and sale of radio sets. Voluntary petition in bankruptcy was filed on Dec. 31, 1932, and final liquidation effected thereafter.

Tantalum Corp. of America, incorporated March 12, 1932.

Ramet Corp. of America, organized April 27, 1931, and controls:

Vascoloy-Ramet Corp., organized Aug. 26, 1933, upon settlement of patent litigation.

**Subsidiaries.**

Present subsidiaries are as follows:

	% Stock Owned
Ramet Corp. of America.....	100
Vascoloy-Ramet Corp. ....	66½
Tantalum Corp. of America.....	100

**Affiliate.**

Company owns 21.81% of outstanding preference stock, 21.09% of common stock and 32.5% of debentures of Tungsten Manufacturing Co., Ltd.

**Business.**

Company is engaged in extraction from ore of non-ferrous rare metals such as tungsten, tantalum, molybdenum, etc., and

refinement, development and manufacture of these metals and their alloys and products. In 1935, about half business volume was in tungsten products, one-fifth in molybdenum and one-fifth in tantalum.

Products in detail and outlets are:

(a) Tantalum, columbium, tungsten, molybdenum, caesium and rubidium in varied forms, including sheet, rod, powder and wire.

(b) Tungsten and silver contact points; special tungsten parts and units for chemical and electrical industries.

(c) Tantalum parts and units for chemical and electrical industries; special tantalum and tantalum alloy parts for use in rayon manufacture, including spinnerets and thread guides.

(d) Railway and industrial rectifiers used in railway signal work, telephone systems, etc.

(e) Hard cutting tantalum carbide nibs, tips, wearing surfaces, tools and wire drawing dies.

(f) Ferro-tantalum and ferro-columbium.

Patent Litigation Settled—All patent litigation between company and its subsidiary, Ramet Corp. of America, and General Electric Co. and Carboloy Co., relating to company's Ramet tantalum carbide products was settled Aug. 8, 1933. Following settlement, a contract was entered into with Vanadium-Alloys Steel Co. for consolidation of tantalum carbide divisions of this company, Ramet Corp. of America and Vanadium-Alloys Steel Co. whereby all manufacturing operations now are conducted at North Chicago, Illinois, by a new corporation, Vascoloy-Ramet Corp., and all sales and promotional activities are handled by Vanadium-Alloys Steel Co. This company owns two-thirds of capital stock of new company.

#### Business of Subsidiaries and Affiliates.

Ramet Corp. of America owns and controls patents and licenses for hard carbide cutting, drilling and grinding tools and dies.

Vascoloy-Ramet Corp. manufactures and sells products under patents of parent company and hard carbide nibs and tips for such tools.

Tantalum Corp. of America owns and deals in tantalite ore. Tungsten Manufacturing Co., Ltd., owns Fansteel foreign patent rights relating to tungsten contacts and manufacture thereof.

## Property.

Plant, located at North Chicago, Ill., occupies 7½ acres and is owned in fee. All metallurgical and fabricating activities are carried on at this plant, in one building of which is located plant of Vascoloy-Ramet Corp.

## Funded Debt.

\*\$222,000 Fansteel Products Co., Inc. (predecessor) First & Coll. S. F. 6s, due Feb. 1, 1943. Int. Pay.—Feb. and Aug. 1. Redeemable at \$110. Secured by first mortgage on company's plant and by deposit of entire capital stocks of Ramet Corp. of America and the Tantalum Corp. of America. Trustee—Continental Illinois National Bank & Trust Co., Chicago.

\*Certain bank loans of the Balkeit Radio Co. (dissolved subsidiary), which were guaranteed by parent company, together with \$50,000 bank loans of parent company were funded through issuance of \$277,000 of these bonds in early 1933.

Note—\$26,150, entire issue, Fansteel Products Co., Inc. (predecessor) 10-Yr. Conv. Deb. 7s, due Feb. 15, 1939, were called for payment at 103 and interest on June 15, 1936.

## Capital Stock.

	Auth.	Outstdg.
\$5 non-cum. pfd. (no par).....	10,000 sh.	*7,546 sh.
Com. (no par).....	†260,000 sh.	‡195,921 sh.

\*Excluding 131 shares in treasury.

†Of which 38,677 shares are reserved for exercise of stock purchase warrants (27,677 sh.) and options (11,000 sh.).

‡Giving effect to sale of 20,000 shares with stock purchase warrants on Jan. 1, 1936.

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## Standard Corporation Records. Page 1020

Number of Stockholders, April 15, 1936: preferred, 51; common, 479.

Capital Changes—Authorized common stock was increased to 160,000 shares from 40,000 shares Jan. 28, 1927, and stock split four for one. Authorized amount was further increased to 260,000 shares Jan. 24, 1929.

Issue of 10,000 no par \$7 cumulative preferred shares was

created in August, 1929. Changed to \$5 non-cumulative on Jan. 1, 1936, old preferred stockholders receiving common stock purchase warrants for purchase of one common share for each old preferred share held, as consideration for waiver of accrued dividends which amounted to \$16.91 par share on Dec. 31, 1935.

Rights to Debentures—Stockholders of record January, 1929, had right, expiring Feb. 11, 1929, to subscribe to \$10 principal amount of debentures for each share of stock held.

### Stock Provisions.

Preferred stock has preference as to assets and non-cumulative dividends of \$5 per annum (reduced from \$7 in January, 1936), payable quarterly. Redeemable on 30 days' notice at \$103 per share. Liquidation—Entitled to \$103 per share. Sinking Fund provides that 5% of net earnings must be set aside each quarter, beginning Jan. 1, 1936, before payment of common dividends, for retirement or redemption of preferred. Restrictions—No dividends may be paid on common unless (a) full dividends at annual rate of \$5 have been paid on preferred stock; and (b) sinking fund requirements have been appropriated and set apart. Voting Power—Has one vote per share.

Warrants—Holders of warrants given to old preferred stockholders as consideration for waiver of accrued dividends, and, to purchasers of 20,000 common shares on Jan. 1, 1936, have right, expiring Dec. 31, 1937, to total of 27,677 common shares at \$10 per share, on basis of one common share for each warrant held. Subscription rights are subject to adjustment in event of concentration or dilution of common stock.

Options—Officer and director have right, expiring Dec. 31, 1937, to purchase total of 11,000 common shares at \$5 per share.

Transfer Agents—(Pfd.) Continental Illinois National Bank & Trust Co., Chicago; (Com.) City National Bank & Trust Co., Chicago.

Registrar—Harris Trust & Savings Bank, Chicago, Ill.

Listed (Com.)—Traded on New York Curb Exchange.

Price Range.  
(N. Y. Curb)

	High	Low
1934 .....	4½	1½
1933 .....	4½	1½
1932 .....	2	½
1931 .....	11½	1½
1930 .....	13	8½
1929 .....	24½	5½
1928 .....	35	9½
1927 .....	39½	20

Dividends.

1936 Payments—Preferred, March 31, June 30, Sept. 30 (declared) and Dec. 30 (declared), \$1.25 each date, to stockholders consenting to dividend and other changes in preferred stock. Common, none to June 30.

Dividends Paid in Calendar Years:

Com.	Com.
1928-35 .....	1927 .....
1927 .....	1926 .....
\$2.25	*\$1.50
	*4.50

\*Paid on old stock prior to 300% stock dividend paid April 30, 1927.

Any subsequent dividends will be published in Standard Dividend Sections.

Financial Statements.

Earnings, Years Ended April 30:

	Net Income \$	*Earn. per Share Pfd. \$	Com. \$
1935 .....	78,797	10.44	0.15
1934 .....	d8,019	1.05	d0.35
1933 .....	(a)24,262	(a)3.18	(a)d0.17
1932 .....	†d218,900	...	d1.36
1931 .....	d19,510	...	d0.12
1930 .....	240,772	...	1.50
1929 .....	d357,085	...	d2.23
1928 .....	d322,828	...	d2.02
1927 .....	530,407	...	3.30
1926 .....	1,069,725	...	†6.22

\*Based on following shares:



## Board Exhibit No. 4.

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	Pfd.	Com.
1935.....	7,546	175,921
1934.....	7,636	175,839
1933.....	7,630	175,827
1930-32 .....	....	160,567
1926-29 .....	....	160,000

†After allowing for dividends on preferred stock retired June 30, 1926.

†After capitalizing Ramet development costs.

(a) Before \$11,147 profit on debentures acquired; after such profit results per share on preferred and common were \$4.64 and \$d0.10, respectively.

d Deficit.

Consolidated Income Account, Years Ended Dec. 31 (incl. subs.):

	1935	1934
Net sales .....	.....	\$ 565,171
Cost of sales.....	.....	399,763
Gross profit on sales.....	\$ 257,760	165,408
Sell. exp. ....	60,786	46,268
Oper., gen'l & admin. exp.....	66,658	71,218
Oper. income .....	130,316	47,922
Other income .....	33,337	17,218
Total income .....	163,653	65,140
Depreciation .....	40,087	41,048
Federal taxes .....	9,745	.....
Interest .....	18,149	32,111
Other deducts .....	16,875	.....
Net income .....	78,797	d8,019

d Deficit.

Comparative Consolidated Balance Sheet, Dec. 31 (incl. subs.):

Assets—	1935	1934
Land, bldgs., eqp., etc.....	\$1,225,394	\$1,212,892
Less res. for depr.....	482,126	450,221
Land, bldgs., etc. (net).....	\$ 743,268	\$ 762,671
Gdwl., pats., etc.....	915,722	915,722
Investments .....	330,596	331,796
Deferred chgs. ....	3,083	2,988

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## Board Exhibit No. 4.

## Current Assets—

Cash .....	38,012	22,596
Due fr. affil. co. (curr.) .....	1,313	11,001
Creds. accts. (debit bals.) .....	1,022	1,041
Notes rec. ....	609	126
Accts. rec. (less res.) .....	64,438	46,090
Advs. & sundry rec. ....	2,207	2,306
Inventories (lower cost or mkt.) .....	285,664	286,723
Cash val. life ins. ....	12,238	9,925

Tot. curr. assets .....	\$ 405,503	\$ 378,808
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Total assets .....	\$2,398,172	\$2,392,985
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## Liabilities—

†Preferred stock .....	\$ 679,140	\$ 687,240
†Common stock .....	882,205	881,795
Funded debt .....	222,000	303,180
Res. for return of spools in cust. hands.	3,733	3,811
Depos. on foreign sales contrs. ....	1,565	7,927
Surplus .....	490,371	414,274

## Current Liabilities—

Notes pay. ....	.....	32,066
Accts. pay. ....	25,556	19,790
Sink. fd. (curr.) .....	55,850	.....
Accruals .....	37,752	42,902

Total curr. liab. ....	\$ 119,158	\$ 94,758
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Total liabilities .....	\$2,398,172	\$2,392,985
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*Net wkg. cap. ....	\$ 286,345	\$ 285,050
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\*Based on current assets and current liabilities as above.  
†Represented by following no par shares:

	1935	1934
Preferred .....	7,546	7,636
Common .....	175,921	175,839

Certification of Accounts—Reports contained certificates of  
Wm. M. Thompson & Co., Certified Public Accountants.

## Management.

## Officers.

R. J. Aitchison, Pres.  
 E. F. Radke, Secy.-Treas.  
 M. A. Durst, Asst. Secy.  
 A. J. Dowe, Asst. Treas.

## Directors.

J. M. Troxel, Chmn.

W. B. Baggaley	R. J. Aitchison
B. V. Becker	A. G. McCaleb
R. Harrison	J. H. Strong
E. F. Radke	H. W. Chadbourne
M. L. Emerich	H. W. Blumenthal

Remuneration of Management, Year Ended Dec. 31, 1935:

Aggregate of directors (9).....	\$24,180
Aggregate of officers (3).....	24,000
Aggregate of officers, other than directors (2).....	5,850

Annual Meeting—First Tuesday in April, New York.

Fiscal Year ends Dec. 31; prior to 1933 ended April 30.

Main Office—North Chicago, Ill.

New York Office—120 Broadway.

## General Information.

Foreign and Domestic Shipments Improved in 1935—March 27, 1936, J. M. Troxel, president of company, successor by name change to Fansteel Products Co., Inc., stated in his 1935 report that foreign tantalum shipments during year increased 25% over 1934 despite difficulties of doing business in Europe. Domestic sales of tantalum increased more than 70%. Export departments extended its activities to Japan, report said, where encouraging orders, though small in volume, already had been received. Domestic sales of tungsten and molybdenum electrical contacts showed an increase of 66 $\frac{2}{3}$ % in dollar volume during 1935 as compared with 1934. For same comparative periods general sales increased almost 50%. Company expanded its production to include silver and various alloy contacts, so that it now manufactures and markets a complete line of contacts for practically every use.

Business for January and February, 1936, report added, compared favorably with operations of like 1935 period and management looked forward to an enlarged and profitable business during remainder of 1936.

## BOARD EXHIBIT NO. 5.

6/10/37.

BEFORE THE NATIONAL LABOR RELATIONS BOARD.

\* \* (Caption—XIII-C-80) \* \*

## STIPULATION.

It Is Hereby Stipulated and Agreed by and between counsel for Fansteel Metallurgical Corporation and counsel for the National Labor Relations Board that the following facts are stipulated:

1. That Fansteel Metallurgical Corporation is a corporation organized and existing under and by virtue of the laws of the State of New York and duly qualified to do business in the State of Illinois.

2. That Fansteel Metallurgical Corporation operates a plant at North Chicago, Illinois, and that approximately seventy per cent (70%) of the raw materials used in the manufacturing processes of said Corporation originates in states other than Illinois and in foreign countries, and that approximately thirty per cent (30%) of the raw materials used in the manufacturing processes of Fansteel Metallurgical Corporation originates in the State of Illinois.

170 3. That the cost of the raw materials used in the manufacturing processes of Fansteel Metallurgical Corporation for the calendar year of 1936 amounted to approximately Two Hundred and Fifty Thousand Dollars (\$250,000.00).

4. That approximately seventy per cent (70%) of the finished products manufactured by Fansteel Metallurgical Corporation are shipped into states other than Illinois and into foreign countries. These products are divided approximately as follows:

(a) Tungsten products—approximately	52%
(b) Molybdenum products—approximately	20%
(c) Tantalum and tantalum products—approximately	22%
(d) Battery chargers, silver contacts, metal chemicals and other items—approximately	6%

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Total 100%

5. That the value of the manufactured products during the first calendar year of 1936 amounted to approximately One Million Fifty Thousand Dollars (\$1,050,000.00).

6. That the outbound shipments, both interstate and intrastate, from the plant of Fansteel Metallurgical Corporation at North Chicago, Illinois, are made by mail, express, truck and rail.

7. That the principal chemicals used in the manufacturing processes of Fansteel Metallurgical Corporation, including hydrofluoric and hydrochloric acids, ammonia and fuel oil, are delivered to the Company's plant by rail, in tank car lots.

171 8. That during the period from the date of organization of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America in July, 1936, until the evening of February 17, 1937, no employee or employees of the respondent were discharged from the respondent's employment by reason of their membership in said Lodge 66 or in any other labor organization, or by reason of their having engaged in concerted activities for collective bargaining, or in other activities authorized, approved or guaranteed by the National Labor Relations Act; it being expressly understood and agreed however that such stipulation shall not be taken or construed to provide any evidence or inference or constitute any agreement with respect to the reasons or basis for the discharge of any employees of the respondent during the evening of February 17, 1937, or thereafter.

It is expressly understood and agreed that this Stipulation shall be without prejudice to either party to the proceeding either (a) to object to the introduction into evidence of any portion of this Stipulation upon the ground of materiality, and (b) to offer additional evidence with reference to any of the matters and things in this Stipulation contained.

Wm. R. Walsh,

*Counsel for National Labor Relations Board, Complainant.*

Levinson, Becker, Peebles & Swiren and  
Sidney H. Block,

*Counsel for Fansteel Metallurgical Corporation, Respondent.*

Dated: June 10, 1937.

6/10/37.

State of Illinois }  
 County of Lake } ss.

## IN THE CIRCUIT COURT OF LAKE COUNTY.

Fansteel Metallurgical Corporation,  
 A New York corporation,  
*Plaintiff,*

*vs.*

National Labor Relations Board, J.  
 Warren Madden, John M. Carmody  
 and Edwin S. Smith, as members  
 of the National Labor Relations  
 Board, Leonard C. Bajork, Re-  
 gional Director of the 13th Region  
 of the National Labor Relations  
 Board and W. I. Walsh, attorney  
 for the National Labor Relations  
 Board, and T. E. Dudley, Trial Ex-  
 aminer for the National Labor Re-  
 lations Board,

No. 37939.

*Defendants.*

## COMPLAINT.

To the Honorable, the Judges of the Circuit Court of Lake  
 County, Illinois:

Fansteel Metallurgical Corporation, a New York corpora-  
 tion, complaining of National Labor Relations Board, J. War-  
 ren Madden, John M. Carmody and Edwin S. Smith, as mem-  
 bers of the National Labor Relations Board, Leonard C.  
 Bajork, Regional Director of the 13th Region of the National  
 Labor Relations Board, W. I. Walsh, attorney for the Na-  
 tional Labor Relations Board, and T. E. Dudley, Trial Ex-  
 aminer for the National Labor Relations Board, alleges that:

1. It is a corporation duly organized and existing under  
 the laws of the State of New York and authorized and li-  
 censed to do business in the State of Illinois; that it is en-  
 gaged, in the County of Lake, State of Illinois, in the  
 173 refinement, manufacture and sale of rare metals and  
 chemical compounds of metals.



2. On February 18, 1937, the Plaintiff filed and presented in the Circuit Court of Lake County, Illinois, its Complaint against Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and certain other defendants, which Complaint and a Supplemental Complaint are now in hearing in Cause No. 37551 in this Court.

3. On or about May 18, 1937, the above mentioned cause entitled "Fansteel Metallurgical Corporation *vs.* Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al." No. 37551, was duly set for hearing before this Court on June 2, 1937, for disposition of all pending matters therein, including rules to show cause why certain persons should not be punished for contempt and Plaintiff's application for a Final Decree. Pursuant to such setting, hearings upon such rules to show cause in said proceedings were duly commenced on June 2, 1937 and have proceeded continuously to the date hereof and are, on the date hereof, continuing. The completion of the hearing now on trial will require at least three days beyond the date hereof.

4. On May 26, 1937, seven days before the trial of this case was scheduled to commence, the Defendant, National Labor Relations Board, issued and served upon the Plaintiff its Complaint and notice to appear for hearing on such Complaint before its Trial Examiner in the New Post Office Building in Waukegan, Illinois, at ten o'clock in the forenoon on June 7, 1937, based upon charges filed in the name of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, Defendant in the above mentioned prior proceedings, and Meyer Adelman, respondent to a rule to show cause in said proceedings; which Complaint bears Case No.

XIII-C-80. Thereupon, in accordance with the rules and 174 regulations of the Defendant, National Labor Relations Board, the respondent filed with the Regional Director of the Board for the 13th Region, the Defendant, Leonard C. Bajork, on May 27, 1937, its duly verified motion asking that the date of hearing before the Trial Examiner of said Board be adjourned from June 7, 1937 for a period of at least ten days in order that the aforementioned trial before this Court in the prior proceedings may continue and be completed and in order to afford to the Plaintiff a few days thereafter in which to prepare for the hearing before said Board. On May 28, 1937, Max Swiren, one of the counsel for said Plaintiff, filed with said Leonard C. Bajork his affidavit setting out that he and the other counsel representing the Plaintiff and the

officers of the Plaintiff and a large number of their witnesses would be required to attend and participate in the trial before this Court in the proceedings aforesaid and that their attendance would also be necessary at the hearing before the Trial Examiner of said Board. Thereupon, said Leonard C. Bajork did, on May 29, 1937, deny the Plaintiff's application for an adjournment.

5. On June 4, 1937, the Plaintiff renewed its application for an adjournment by telegraphic request to J. Warren Madden, one of the Defendants herein and Chairman of the National Labor Relations Board, to which application respondent has had no response whatsoever. On June 5, 1937, after the close of Court, counsel for the Plaintiff advised the Defendant, Leonard C. Bajork, that the aforementioned proceeding in this Court is still in trial before this Court and would continue for at least three days to come and that the counsel, officers and witnesses for the Plaintiff who would be required for its defense before the Trial Examiner of said Board would be required to continue in attendance at the trial before this Court, and upon the basis thereof renewed the application for an adjournment, which said Leonard C. Bajork thereupon denied.

175 6. On June 4, 1937, at the hour of 4:30 P. M., the Defendants herein caused one of their agents to present and serve upon Robert J. Aitchison, President of the Plaintiff, in the Circuit Courtroom of the Lake County Courthouse in Waukegan, Illinois, where the aforementioned proceedings are being heard, a subpoena duces tecum directing him to appear and produce on June 7, 1937, before said Trial Examiner of said Board, certain documents and records of the Plaintiff. At the time of the service of said subpoena, the Defendants knew full well of the pendency of the trial in said proceedings before this Court and the required attendance of said Robert J. Aitchison at such proceedings on behalf of this Plaintiff.

7. The only counsel for the Plaintiff sufficiently familiar with the matters and things involved in the proposed hearing before the Examiner of said Board to enable them properly to represent this Plaintiff without prejudice to its rights are the attorneys now engaged in the aforementioned proceedings before this Court, namely, Sidney H. Block, Harold M. Keele and Max Swiren. The attendance of substantially all of the respondents to the several rules to show cause in the aforementioned proceedings now on trial before this Court will be required on behalf of the Plaintiff in the presentation of its

defense before the Examiner of said Board, and such attendance cannot be procured without interference with, and contempt of, this Court in the trial of the aforementioned proceedings unless said hearing before the Trial Examiner of said Board is adjourned or otherwise postponed until after the conclusion of the trial aforesaid. All of the respondents in said proceeding now on trial were especially admonished by the Court to appear and be present at the resumption of trial on Monday, June 7, 1937, at the hour of 9:30 o'clock in the forenoon, and this matter has been brought to the attention of the Trial Examiner of said Board.

176 8. In and by said proceedings before the National Labor Relations Board, said Board is seeking to compel the Plaintiff to re-employ approximately ninety persons and compensate said persons at their prior rate of compensation for the period from February 27, 1937 to a date sometime in the future, beyond the present date, to be set by said Board; that by reason thereof, there is involved and in jeopardy in said proceedings before said Board, substantial property and property rights of the Plaintiff.

9. Notwithstanding the matters and things aforesaid, the Trial Examiner of said Board, one of the Defendants herein, did, on this date, at the hour of ten o'clock in the forenoon, open the aforementioned hearing of the National Labor Relations Board against the Plaintiff, Fansteel Metallurgical Corporation, in the New Post Office Building at Waukegan, Illinois. Notwithstanding a further application made to said Examiner for an adjournment of said hearing, the Defendants threaten and, unless enjoined by this Honorable Court, will continue during today and thereafter until completed the hearings before the Trial Examiner of said Board, which acts will: (a) seriously and irreparably damage the Plaintiff; (b) deprive the Plaintiff of its constitutional right to due process of law; (c) delay, interfere with and hamper the aforementioned proceedings now on trial before this Honorable Court; and (d) constitute an obstruction of justice and interference with the orderly procedure of the Circuit Court of Lake County, Illinois.

10. The Defendant, National Labor Relations Board, is an administrative body with certain quasi-judicial functions and is in no respect a court of law or justice.

11. If the injunction hereinafter prayed for be not issued immediately and without delay required for the giving of

notice, the rights of the Plaintiff will be seriously and  
 177 unduly prejudiced and the Plaintiff will suffer irreparable  
 injury. No property rights of the Defendants in this  
 proceeding are involved or will be affected by the granting of  
 an injunction herein, and no damage can possibly result to  
 them and by reason thereof an injunction bond ought not to be  
 required upon the granting of the injunction hereinafter  
 prayed.

Wherefore, the Plaintiff respectfully prays that an order  
 may be entered by this Honorable Court, without notice to the  
 Defendants and without requiring the Plaintiff to give bond,  
 enjoining and restraining the Defendants and each of them  
 and their respective counsel, employees and agents, or any of  
 them, from holding or continuing any hearing or hearings  
 upon the aforesaid Complaint against this Plaintiff until such  
 time as the present trial in the aforementioned proceedings  
 before this Court is concluded; and for such other and further  
 relief as this Court may deem meet and proper.

Fansteel Metallurgical Corporation

By R. J. Aitchison (signed)

R. J. Aitchison,

*President.*

Levinson, Becker, Peebles & Swiren,  
 Sidney H. Block,

*Attorneys for Plaintiff.*

178 State of Illinois }  
 County of Lake } ss.

R. J. Aitchison, being first duly sworn, on oath deposes and  
 says:

(1) That he is the duly elected, qualified and acting Presi-  
 dent of Fansteel Metallurgical Corporation, a New York cor-  
 poration, the Plaintiff in the foregoing Complaint and its duly  
 authorized agent in this behalf.

(2) That he has read the forgoing Complaint by him sub-  
 scribed and that he knows of his own knowledge that the facts  
 therein contained are true.

R. J. Aitchison (signed)

Sworn to and subscribed before me this 7th day of June,  
 A. D. 1937.

L. J. Wilmot (signed)  
*Circuit Clerk.*

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BOARD EXHIBIT NO. 7.

6/10/37.

INJUNCTION WRIT.

State of Illinois, }  
Lake County, } ss.

The People of the State of Illinois: To National Labor Relations Board, J. Warren Madden, John M. Carmody and Edwin S. Smith, as members of the National Labor Relations Board, Leonard C. Bajork, Regional Director of the 13th Region of the National Labor Relations Board, W. I. Walsh, attorney for the National Labor Relations Board, and T. E. Dudley, Trial Examiner for the National Labor Relations Board, and to your attorneys, employees, servants and agents and to each and every one of them, Greeting:

Whereas, it has been represented to the Honorable Theodore Foebv, Judge of the Seventh Judicial Circuit of the State of Illinois, and sole presiding Judge of the Circuit Court of Lake County, in said Circuit, and State aforesaid, on the part of Fansteel Metallurgical Corporation, a New York corporation, Plaintiff in its complaint exhibited before said judge, and held in said Court against you, the said Fansteel Metallurgical Corporation, a New York corporation, to be relieved touching the matters therein complained of. In which said complaint is stated, among other things, that you are combining and confederating with others to injure the plaintiff, touching the matters set forth in the said complaint, and that your actings and doings in the premises are contrary to equity and good conscience, And whereas the said Judge, having under his hand, endorsed upon said complaint an order that a Writ of Injunction issued out of said Court, according to prayer of said complaint. We, therefore, in consideration thereof, and of the particular matters in said bill set forth, Do Strictly Command You, the said National Labor Relations Board, J. Warren Madden, John M. Carmody and Edwin S. Smith, as members of the National Labor Relations Board, Leonard C. Bajork, Regional Director of the 13th Region of the National Labor Relations Board, W. I. Walsh, attorney for the National Labor Relations Board, and Trial Examiner for the National Labor Relations Board, and the persons before men-



tioned, and each and every one of you, and all of your attorneys, employees, servants and agents, that You Do Absolutely Desist And Refrain From continuing or holding any hearing or hearings upon the Complaint of the National Labor Relations Board against Fansteel Metallurgical Corporation, being Case No. XIII-C-80, until the conclusion of the trial now on hearing before the Circuit Court of Lake County, Illinois, involving proceedings in Cause No. 37551 entitled "Fansteel Metallurgical Corporation vs. Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al." until the Honorable Court shall make other order to the contrary. Hereof fail not under penalty of what the law directs.

To the Sheriff of said County to execute and return in due form of law.

Witness L. J. Wilmot, Clerk of said Circuit Court, and the seal thereof, at Waukegan in said County, this 7th day of June, 1937.

L. J. Wilmot,  
Clerk.

(Seal)

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## BOARD EXHIBIT NO. 8.

6/18/37.

IN THE CIRCUIT COURT OF LAKE COUNTY.

• • (Caption—37939) • •

## INJUNCTIONAL ORDER.

This matter coming on to be heard upon the verified Complaint of Fansteel Metallurgical Corporation and its motion for a temporary injunction, and it appearing to the Court that the right of the Plaintiff will be irreparably and unduly prejudiced unless this order is entered immediately and without delay or notice, and that no property rights of the Defendants will be affected by the entry of this order, and the Court being of the opinion that, for good cause shown, this order ought to be entered and the injunction entered without bond;

It Is Ordered, Adjudged and Decreed:

(1) That the Defendants, National Labor Relations Board, J. Warren Madden, John M. Carmody and Edwin S. Smith, as members of the National Labor Relations Board, Leonard



C. Bajork, Regional Director of the 13th Region of the National Labor Relations Board, W. I. Walsh, attorney for the National Labor Relations Board, and T. E. Dudley, Trial Examiner for the National Labor Relations Board, and the attorneys, employees, servants and agents of each of them, be,

and they are hereby enjoined and restrained from continuing or holding any hearing or hearings upon the

Complaint of the National Labor Relations Board against Fansteel Metallurgical Corporation, being Case No. XIII-C-80, until the conclusion of the trial now on hearing before the Circuit Court of Lake County, Illinois, involving proceedings in Cause No. 37551 entitled "Fansteel Metallurgical Corporation *vs.* Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al."; and

(2) That a writ of injunction in accordance with this order issue forthwith from and under the seal of this Court.

Enter:

Theodore Farley,  
*Judge.*

June 7, 1937.

1602

*Board Exhibit No. 9.*

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BOARD EXHIBIT NO. 9.

6/11/37.

Serial No. R. 389

UNITED STATES DEPARTMENT OF LABOR  
Frances Perkins, Secretary  
Bureau of Labor Statistics  
Isador Lubin, Commissioner

Review of Strikes in 1935

Prepared by  
Division of Industrial Relations  
Florence Peterson, Chief

[From the Monthly Labor Review (May 1936)  
of the Bureau of Labor Statistics, United  
States Department of Labor]

(Cut)

United States  
Government Printing Office  
Washington: 1936

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Review of Strikes<sup>1</sup> in 1935

There were 2,014 strikes in the United States in 1935—the largest number in any year since 1921. The number of workers involved in the 1935 strikes (1,117,213), however, was almost 350,000 less than in 1934, and the number of man-days idle due to strikes in 1935 (15,456,337) was 4 million less.

This article presents an analysis of strikes in 1935, showing classifications by months, industries, states, cities, number of workers involved, major issues involved, duration, methods of negotiating settlements, results, and types of labor organizations involved. Comparative figures for the year 1934 were published in the Monthly Labor Review for January 1936. Figures for the years prior to 1934 are not

<sup>1</sup> The term "strike" is here used in the generic sense to include all stoppages of work due to labor disputes, whether initiated by the employers (lockouts) or by the workers.

at present available in a form corresponding with these classifications. The Bureau is now revising its statistics on strikes occurring since 1927 so that comparable data can be shown for each classification. (The data on hand are insufficient to attempt such revision for years preceding 1927).

At the present time the Bureau obtains notices of strikes from 670 daily newspapers, labor papers, and trade journals. Questionnaires are then sent out to the parties involved in the dispute to obtain detailed and first-hand information. Data are also obtained from Federal and State labor boards and conciliation services.

Verified information was not obtained on 44 cases where notices of strikes appeared in the public press, and these cases are not included in this report. Some of them were undoubtedly only threatened strikes which did not materialize, and the remainder were probably small strikes of little significance. With the exception of these, it is believed that the following tables include all the strikes occurring in the United States during 1935 which lasted as long as 1 day, and in which six or more workers were involved.

### Monthly Trend

Strikes in 1935 followed the usual seasonal trend, showing an increasing number in the spring and summer months, with a peak figure of 239 in August, and then a decline with the advent of cold weather. Comparable figures on strikes in 1934 and 1935 by months are shown in table 1. In 1934 the month with the largest number of strikes was May (226); in 1935 it was August (239). The month with the fewest strikes in 1934 was February (94), and in 1935 it was December (90).



In September of each year an unusually large number of employees were involved in strikes. This was due to the general textile strike in September 1934 and the short but widespread bituminous-coal strike in September 1935.

Table 1.—Strikes in 1934 and 1935, by Months

Month	Number of strikes--				Number of workers involved in strikes--				Man-days idle during month	
	Beginning in month		In progress during month		Beginning in month		In progress during month			
	1934	1935	1934	1935	1934	1935	1934	1935	1934	1935
Year	1,856	2,014			1,406,695	1,117,213			19,691,949	15,456,337
January	98	140	132	213	81,650	81,194	106,734	92,630	822,400	720,778
February	94	149	143	232	89,562	64,238	160,713	96,633	867,912	836,496
March	161	175	222	277	91,559	83,069	128,886	98,457	1,237,055	966,980
April	210	180	263	294	185,282	67,857	229,552	124,174	2,333,230	1,178,851
May	226	174	329	307	145,830	102,491	224,264	151,163	1,956,898	1,697,845
June	165	189	276	319	56,244	48,917	119,509	129,784	1,565,601	1,311,278
July	151	184	277	317	180,266	70,046	250,326	141,829	2,221,663	1,297,730
August	183	239	297	377	80,071	74,313	162,980	150,835	2,188,239	1,191,662
September	150	162	259	311	423,915	433,820	480,318	514,427	4,136,108	3,627,040
October	187	190	297	332	69,441	48,223	104,207	133,742	906,450	1,562,908
November	130	142	229	374	37,899	38,279	94,494	100,732	969,061	1,003,852
December	101	90	201	210	25,004	14,746	73,279	61,782	384,353	660,911

### Industries Affected

APPROXIMATELY 25 percent (497) of the strikes in 1935 were in the textile industries, about two-fifths of these being in the fabrics industries and three-fifths in the clothing industries. The next highest industry group in number of strikes was the transportation and communication industries, which had 198. Building and construction industries experienced 139 strikes, trade 138, the lumber industries 135, and the food industries 103.

There were more workers involved and more man-days of idleness because of strikes in the mining industries than in any other group. This was due to the general strike of bituminous-coal miners in September 1935.

The "interindustry" strike listed in table 2 was a 1-day strike of organized workers in stove plants, shoe plants, and clothing factories at Belleville, Ill., protesting the hiring of nonunion men by the Illinois Power & Light Co. to fill the places of strikers. The general strike listed was the 2-day general strike at Terre Haute, Ind., in July in sympathy with striking workers of the Columbian Enameling & Stamping Co.





Table 2.—Strikes in 1935, by Industry

Industry	Number of strikes be- ginning in 1935	Number of workers involved	Man-days idle during 1935
<b>All industries</b>	<b>2,914</b>	<b>1,117,713</b>	<b>15,456,327</b>
<b>Iron and steel and their products, not including ma- chinery</b>			
Blast furnaces, steel works, and rolling mills	87	14,882	314,887
Bolts, nuts, washers, and rivets	9	5,023	30,782
Cast-iron pipe and fittings	3	1,314	68,488
Cutlery (not including silver and plated cutlery), and edge tools	5	984	22,721
Forgings, iron and steel	5	1,004	12,773
Hardware	2	847	18,776
Plumbers' supplies and fixtures	1	120	1,020
Steam and hot-water heating apparatus and steam fittings	5	276	3,363
Stoves	3	618	2,886
Structural and ornamental metal work	14	3,005	61,888
Tools (not including edge tools, machine tools, files, and saws) (hand tools)	3	600	17,000
Wirework	1	86	1,054
Other	3	229	1,810
<b>Machinery, not including transportation equipment</b>			
Agricultural implements	13	2,827	65,578
Electrical machinery, apparatus, and supplies	88	18,149	378,744
Foundry and machine-shop products	4	3,302	143,274
Radios and phonographs	11	3,782	82,978
Textile machinery and parts	21	2,323	18,051
Typewriters and parts	8	4,207	72,994
Other	1	62	830
<b>Transportation equipment</b>			
Aircraft	5	2,493	2,600
Automobiles, bodies and parts	62	38,218	84,917
Cars, electric- and steam-railroad	1	1,700	6,800
Shipbuilding	34	31,642	335,794
Other	1	150	750
<b>Nonferrous metals and their products</b>			
Aluminum manufactures	4	4,099	295,908
Brass, bronze, and copper products	2	625	3,450
Jewelry	44	7,448	187,138
Lighting equipment	3	232	7,099
Silverware and plated ware	8	729	18,214
Smelting and refining—copper, lead, and zinc	5	2,431	40,926
Stamped and enameled ware	6	397	1,519
Other	1	28	8,396
<b>Lumber and allied products</b>			
Furniture	6	1,179	20,888
Millwork and planing	9	2,124	87,777
Sawmills and logging camps	6	366	5,320
Other	136	87,787	1,618,011
<b>Stone, clay, and glass products</b>			
Brick, tile, and terra cotta	64	14,229	214,040
Glass	15	3,928	60,510
Marble, granite, slate, and other products	39	42,680	1,815,730
Pottery	17	1,661	27,723
Other	35	11,833	348,948
<b>Textiles and their products</b>			
Fabrics	14	3,691	187,927
Carpets and rugs	7	8,400	88,753
Cotton goods	2	255	2,890
Cotton small wares	7	2,149	94,841
Dyeing and finishing textiles	5	338	2,829
Rilk and rayon goods	497	200,638	3,634,958
Woolen and worsted goods	4	2,956	23,316
Other	44	25,103	945,190
<b>Wearing apparel</b>			
Clothing, men's	15	2,694	31,780
Clothing, women's	97	29,416	549,193
Corsets and allied garments	30	11,446	222,969
Men's furnishings	12	2,593	37,319
Hats, caps, and millinery	50	14,127	114,124
Shirts and collars	81	98,232	944,079
Hosiery	1	271	1,385
Knit goods	9	1,407	14,344
Other	21	3,651	87,684
<b>Leather and its manufactures</b>			
Foots and shoes	39	22,582	256,006
Leather	31	6,635	271,145
Other leather goods	20	1,254	30,227
	34	7,317	110,325
	78	18,387	284,979
	57	11,090	174,360
	7	2,871	13,181
	14	2,637	71,400



Table 2.—Strikes in 1935, by Industry—Continued

Industry	Number of strikes beginning in 1935	Number of workers involved	Man-days idle during 1935
<b>Food and kindred products</b>			
Baking	193	24, 083	842, 199
Beverages	38	12, 998	565, 546
Canning and preserving	7	448	52, 172
Confectionery	14	1, 373	24, 020
Flour and grain mills	9	2, 088	27, 206
Ice cream	7	739	23, 091
Slaughtering and meat packing	1	22	22
Sugar beet	1		
Sugar refining, cane	15	4, 564	111, 727
Other	1	84	871
<b>Tobacco manufactures</b>	2	3, 000	10, 500
Chewing and smoking tobacco and snuff	9	1, 493	20, 054
Cigars	5	991	35, 000
<b>Paper and printing</b>	1	325	2, 755
Boxes, paper	4	577	33, 245
Paper and pulp	62	5, 425	134, 443
Printing and publishing	7	1, 221	13, 407
Book and job	8	2, 573	85, 978
Newspapers and periodicals	9	476	22, 188
Other	19	676	8, 560
<b>Chemicals and allied products</b>	6	617	4, 410
Chemicals	8	382	5, 682
Fertilizers	2	534	4, 206
Paint and varnishes	1	16	256
Other	3	99	486
<b>Rubber products</b>	2	92	714
Rubber boots and shoes	7	1, 505	15, 993
Rubber tires and inner tubes	2	210	650
Other rubber goods	1	190	2, 090
<b>Miscellaneous manufacturing</b>	4	508	16, 242
Electric light, power, and manufactured gas	67	9, 749	222, 789
Broom and brush	10	2, 287	89, 817
Furriers and fur factories	2	124	2, 632
Other	20	1, 620	38, 177
<b>Extraction of minerals</b>	35	5, 218	121, 963
Coal mining, anthracite	20	470, 314	4, 019, 333
Coal mining, bituminous	33	56, 191	788, 724
Metalliferous mining	42	420, 874	2, 971, 449
Quarrying and nonmetalliferous mining	5	6, 660	191, 733
Crude-petroleum producing	6	1, 909	64, 202
<b>Transportation and communication</b>	4	280	3, 225
Water transportation	194	61, 223	959, 959
Motor transportation	122	29, 490	749, 534
Electric railroad	64	33, 850	202, 393
Steam railroad	4	611	5, 596
Telephone and telegraph	1	28	56
Air transportation	3	39	94
Radio broadcasting and transmitting	1	69	1, 663
<b>Trade</b>	2	138	614
Wholesale	195	15, 677	219, 132
Retail	23	2, 979	43, 884
<b>Domestic and personal service</b>	115	12, 698	175, 268
Hotels, restaurants, and boarding houses	93	29, 045	281, 476
Personal service, barbers, beauty parlors	47	1, 954	32, 981
Laundries	5	1, 400	10, 850
Dyeing, cleaning, and pressing	16	5, 330	59, 406
Elevator and maintenance workers (when not attached to specific industry)	13	12, 453	116, 870
Other	5	8, 413	37, 229
<b>Professional service</b>	7	1, 515	24, 160
Recreation and amusement	23	1, 922	15, 838
Professional	18	1, 040	7, 399
Semiprofessional, attendants, and helpers	3	156	2, 815
<b>Building and construction</b>	2	106	5, 412
Buildings, exclusive of P. W. A.	139	17, 815	151, 632
All other construction (bridges, docks, etc., and P. W. A. buildings)	76	10, 576	78, 941
<b>Agriculture, etc.</b>	63	7, 239	102, 691
Agriculture	29	11, 211	474, 388
Fishing	14	10, 424	91, 445
Other	10	9, 323	334, 874
<b>Ret. of work and W. P. A.</b>	5	4, 464	48, 049
<b>Other nonmanufacturing industries</b>	93	41, 153	482, 340
Industry	17	896	8, 327
General	1	3, 060	3, 060
	1	28, 089	42, 999



## States Affected

EACH of seven States experienced more than 100 strikes during 1935; in fact, more than half of the total number of strikes in the United States were in these seven States. New York, with 349, had more strikes during the year than any other State. Next in order was Pennsylvania with 320, followed by Ohio with 173, California with 137, New Jersey with 123, Massachusetts with 110, and Illinois with 106. There were more workers involved and more man-days of idleness because of strikes in Pennsylvania than in any other State.

Of the 25 strikes (shown in table 3) which extended into two or more States, with the number of workers involved in each State unknown, 16 were small and would affect very little the figures for any State. None of them involved more than 500 workers and nearly all of them extended into States with a large number of strikes. The other 9 strikes included 13,650 of the 16,282 workers in this group of 25 strikes. Of these nine, three were maritime strikes affecting California, Oregon, and Washington; one was a strike of cotton pickers in the South, centering in Arkansas; two were strikes of truck drivers in New York and neighboring States; one was a strike in the neckwear-manufacturing industry in New York and New Jersey; one a strike in ribbon mills in New Jersey and Pennsylvania; and the other a strike in the wallpaper-manufacturing industry in Illinois, Indiana, and Pennsylvania.

Table 3.—Strikes in 1935, by States

State	Number of strikes beginning in 1935	Workers involved --			Man-days idla during 1935	
		Number	Percent of total	Average per strike	Number	Percent of total
All States.....	2,014	1,117,213	100.0	555	15,456,337	100.0
Alabama.....	59	38,275	3.4	649	1,124,392	7.3
Arizona.....	2	260	( <sup>1</sup> )	130	6,650	( <sup>1</sup> )
Arkansas.....	7	6,371	.6	910	49,168	.3
California.....	137	29,487	2.6	215	479,677	3.1
Colorado.....	5	8,170	.7	1,634	56,764	.4
Connecticut.....	44	12,656	1.1	288	194,291	1.3
Delaware.....	2	345	( <sup>1</sup> )	173	1,995	( <sup>1</sup> )
District of Columbia.....	13	4,401	.4	339	10,521	.1
Florida.....	9	7,046	.6	783	290,070	1.9
Georgia.....	16	6,692	.6	418	182,236	1.2
Idaho.....	5	1,623	.1	325	6,373	( <sup>1</sup> )
Illinois.....	106	73,538	6.6	694	834,043	5.4
Indiana.....	41	46,448	4.2	1,133	350,207	2.3
Iowa.....	13	11,129	1.0	856	79,796	.5
Kansas.....	7	4,854	.4	693	30,507	.3
Kentucky.....	13	14,894	1.3	1,146	403,116	2.6
Louisiana.....	12	5,385	.5	446	138,251	.9
Maine.....	7	2,299	.2	328	25,717	.2
Massachusetts.....	27	9,456	.8	350	49,694	.3
Michigan.....	110	26,321	2.4	239	605,188	3.9
Minnesota.....	55	17,228	1.5	313	187,325	1.2
Mississippi.....	35	6,028	.5	172	177,135	1.1
Missouri.....	8	3,601	.3	450	62,378	.4
Montana.....	45	16,438	1.5	365	229,291	1.5
Nebraska.....	7	2,130	.2	304	26,892	.2
Nevada.....	2	282	( <sup>1</sup> )	141	2,613	( <sup>1</sup> )
New York.....	2	1,267	1	644	12,899	.1

<sup>1</sup> Less than 1/10 of 1 percent.





Table 3.—Strikes in 1935, by States—Continued

State	Number of strikes beginning in 1935	Workers involved			Man-days idle during 1935	
		Number	Percent of total	Average per strike	Number	Percent of total
New Hampshire.....	8	1,547	0.1	193	30,844	0.2
New Jersey.....	128	47,233	4.2	334	1,090,063	7.1
New Mexico.....	3	2,504	.2	835	18,902	.1
New York.....	349	140,299	12.6	402	1,498,133	9.7
North Carolina.....	16	5,215	.5	326	46,893	.3
North Dakota.....	3	1,622	.1	541	7,861	.1
Ohio.....	173	88,620	7.9	512	1,301,504	8.4
Oklahoma.....	15	5,638	.5	376	121,450	.8
Oregon.....	21	13,829	1.2	659	539,201	3.6
Pennsylvania.....	320	245,199	21.9	766	2,326,901	15.1
Rhode Island.....	21	3,512	.3	167	79,622	.5
South Carolina.....	11	5,080	.5	459	183,760	1.2
South Dakota.....	3	2,522	.2	841	25,777	.2
Tennessee.....	27	4,145	.4	154	125,815	.8
Texas.....	34	7,618	.7	317	156,408	1.0
Utah.....	3	2,828	.3	943	13,692	.1
Vermont.....	6	1,960	.2	327	32,809	.2
Virginia.....	12	12,765	1.1	1,064	85,342	.6
Washington.....	61	33,830	3.0	555	1,043,966	6.7
West Virginia.....	17	104,431	9.3	6,143	570,426	3.7
Wisconsin.....	46	10,275	.9	223	266,703	1.7
Wyoming.....	2	3,690	.3	1,845	18,420	.1
Extended across State lines (unable to determine number of workers in each State).....	25	16,282	1.5	651	247,517	1.6

<sup>1</sup> The sum of this column is more than 2,014. This is due to the fact that 27 strikes which extended across State lines have been counted as separate strikes in each of the States affected, with the proper allocation of number of workers involved and man-days idle. In 25 of the total number which extended across State lines it was impossible to determine how many of the workers involved were employed in each of the various States into which the strike extended.

### Cities Affected

FIGURES are shown in table 4 on strikes in 1934 and 1935 for each city which experienced as many as 10 strikes in either of those years. New York, with 201 in 1934 and 257 in 1935, experienced a much larger number of strikes in each of the 2 years than any other city in the country. Philadelphia, Cleveland, and Chicago were the next three cities in order of the number of strikes occurring in each of the 2 years. San Francisco had a large number of strikes each year; Detroit had a large number in 1934, but showed a significant decline in 1935, while Los Angeles experienced the opposite trend.

Because of the difficulty of classifying strikes by cities or other geographical areas, table 4 is presented in two sections. The first section shows for each city the strikes which were confined to that city. These figures do not tell the complete story for each city, however, because, in addition to strictly local strikes, most of the cities were affected by strikes which extended into two or more States. There is no way of knowing for most of these intercity disputes the number of workers and man-days of idleness which should be allocated to each particular city. For this reason supplementary figures are given for the cities which experienced the largest number of strikes in 1934 and 1935, showing the total number of strikes in each of these years, including those which extended across State lines.



cities were involved; these are in addition to the local strikes shown in the first part of the table. New York, for example, was involved in 17 intercity strikes in 1935 in addition to the 257 strictly local strikes. In these 17 intercity strikes, 43,447 workers were involved and 741,857 man-days of idleness resulted, but no accurate statement can be made as to the number of these workers and man-days which should be allocated to the city of New York.

Table 4.—Strikes in 1934 and 1935 in Cities Which Had 10 or More Strikes in Either Year

City	Number of strikes beginning in—		Number of workers involved		Man-days idle during year	
	1934	1935	1934	1935	1934	1935
<i>Strictly local strikes</i>						
Akron.....	13	3	4,310	352	94,683	20,574
Baltimore.....	16	20	2,317	8,231	16,677	31,821
Birmingham.....	14	8	8,999	1,401	227,759	33,668
Boston.....	16	16	4,200	3,694	58,611	29,127
Buffalo.....	12	16	4,366	2,676	147,806	40,037
Chattanooga.....	11	8	2,755	434	45,221	16,772
Chicago.....	48	47	21,310	17,891	196,930	440,782
Cincinnati.....	13	17	2,382	6,288	57,289	95,834
Cleveland.....	67	66	30,727	28,490	428,956	538,022
Columbus.....	13	6	3,391	1,544	13,757	46,367
Detroit.....	44	26	16,954	6,514	227,542	113,968
Elizabeth, N. J.....	2	10	132	1,748	1,548	12,344
Fall River, Mass.....	12	7	6,385	632	45,774	1,844
Jersey City.....	4	10	308	431	3,355	10,600
Kansas City, Mo.....	12	10	1,540	582	7,377	8,347
Los Angeles.....	18	42	4,738	3,790	60,994	70,938
Milwaukee.....	42	21	13,980	3,952	307,002	69,587
Minneapolis.....	12	16	19,127	2,706	258,404	131,320
Newark, N. J.....	22	13	2,399	4,406	51,205	134,678
New Bedford.....	11	4	2,191	545	10,814	6,061
New York (Greater).....	201	257	133,465	102,267	1,628,422	955,210
Paterson, N. J.....	7	18	1,541	16,661	26,815	282,044
Philadelphia.....	68	74	36,076	14,873	498,814	161,656
Pittsburgh.....	19	17	2,399	1,246	40,974	49,279
Portland, Oreg.....	16	10	2,807	403	25,207	7,970
Rochester.....	14	7	2,116	306	13,096	2,782
St. Louis.....	20	21	6,184	2,673	90,691	64,429
San Francisco (bay area).....	42	60	97,665	11,540	328,826	142,291
Seattle.....	6	22	331	3,340	1,291	33,918
Scranton, Pa.....	10	3	1,625	233	25,353	1,785
Terre Haute, Ind.....	7	10	1,082	27,896	12,055	135,855
Toledo.....	14	18	5,147	8,034	58,545	125,949
Washington, D. C.....	22	13	3,175	4,401	60,329	10,521
Worcester, Mass.....	2	11	220	468	3,968	3,838
York, Pa.....	11	5	1,384	272	23,013	8,802
<i>Intercity strikes <sup>1</sup></i>						
Akron.....	2		3,800		110,800	
Baltimore.....	2	5	550	1,247	2,840	19,139
Birmingham.....	3		23,100		725,800	
Boston.....	1	3	675	759	15,525	5,508
Buffalo.....	3	1	2,097	200	94,419	3,800
Chattanooga.....		1		158		3,634
Chicago.....	3	4	2,015	1,600	96,621	20,941
Cleveland.....	2	3	1,931	744	92,925	19,976
Columbus.....	2		1,700		41,800	
Detroit.....	1	1	242	44	10,164	176

<sup>1</sup> Intercity strikes in which the listed cities were involved in addition to the strictly local strikes. It is impossible to determine how many of the total number of workers and man-days of idleness should be allocated to each particular city. The general textile strike of 1934 is not included in this table since it is impossible to get data on this strike by cities, and since such a small proportion of the total number of workers involved worked in any one of the cities listed.

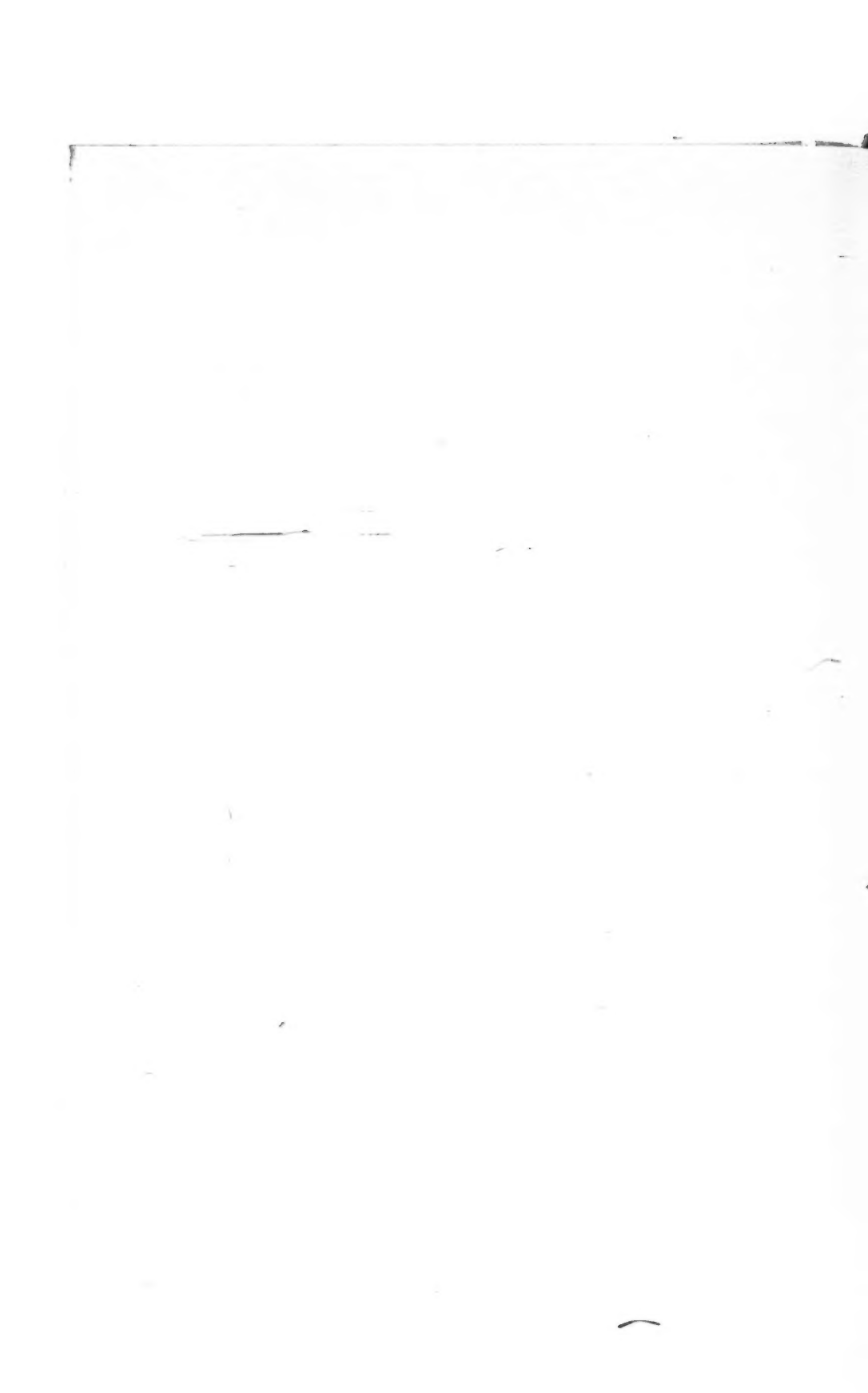


Table 4.—Strikes in 1934 and 1935 in Cities Which Had 10 or More Strikes in Either Year—Continued

City	Number of strikes beginning in—		Number of workers involved		Man-days idle during year	
	1934	1935	1934	1935	1934	1935
<i>Intercity strikes—Continued</i>						
Elizabeth, N. J.	1	3	2,000	609	16,000	29,288
Jersey City	3		3,700		44,000	
Kansas City		1		2,000		6,000
Los Angeles	3	7	14,800	3,038	870,800	125,146
Milwaukee	3	1	3,765	13	129,873	364
Minneapolis		3		872		10,843
Newark	6	6	20,347	6,564		430,843
New York	6	17	43,330	43,447	1,008,710	741,857
Paterson	1	2	25,000	1,350	473,000	10,350
Philadelphia	2	4	25,080	23,739	673,960	503,910
Pittsburgh		2		825		1,150
Portland (Oreg.)	4	12	14,907	37,159	573,047	1,406,740
St. Louis	1	4	1,700	555	11,900	15,430
San Francisco (bay area)	3	12	14,800	9,544	570,800	265,044
Seattle	5	9	15,077	38,957	578,911	1,616,439
Terre Haute		1		27		578
Toledo	3	2	1,742	594	39,164	2,476
Washington	1		470		1,880	
Worcester		1		11		33
York	4	3	28,382	6,285	267,122	413,416

## Number of Workers

THE average number of workers involved in the 2,014 strikes which began in 1935 was 555. More than half of the strikes involved fewer than 100 workers each, but the average was raised considerably by the few large strikes of the year.

A distribution of the strikes in each industrial group according to the number of workers involved is shown in table 5. The 9 strikes each of which involved 10,000 or more workers were: The 1-day strike of 20,000 truck drivers in New York City in January; the general lumber strike in the Pacific Northwest which began in May; 4 strikes in the clothing industries (shirt-manufacturing employees in New York, New Jersey, Connecticut, and Pennsylvania in January; cotton-garment workers in Chicago in February; and 2 strikes of dress-manufacturing workers, 1 in April which extended into New York, New Jersey, Connecticut, and Pennsylvania, and the other in September in New York City); the 2-day general strike in Terre Haute, Ind., in July; and 2 strikes in the coal-mining industry (the general bituminous strike of September and the strike of 20,000 miners in Alabama, whose failure to obtain a settlement at the close of the general bituminous strike developed into a strike of their own which lasted for nearly 2 months).





Table 5.—Strikes Beginning in 1935, Classified by Number of Workers Involved

Industrial group	Total	Number of strikes in which the number of workers involved was—						
		6 and under 20	20 and under 100	100 and under 500	500 and under 1,000	1,000 and under 5,000	5,000 and under 10,000	10,000 and over
All industries.....	2,014	340	755	639	143	113	15	9
<i>Manufacturing</i>								
Iron and steel and their products, not including machinery.....	67	4	25	28	6	4	—	—
Machinery, not including transportation equipment.....	50	3	24	14	5	4	—	—
Transportation equipment.....	42	—	7	19	7	8	1	—
Nonferrous metals and their products.....	44	—	17	19	1	1	—	—
Lumber and allied products.....	135	17	49	49	14	5	—	1
Stone, clay, and glass products.....	35	3	14	14	2	2	—	—
Textiles and their products.....	497	50	187	192	34	26	4	4
Leather and its manufactures.....	78	9	30	29	8	2	—	—
Food and kindred products.....	103	27	33	31	3	8	1	—
Tobacco manufactures.....	5	—	1	4	—	—	—	—
Paper and printing.....	52	18	23	8	2	1	—	—
Chemicals and allied products.....	8	2	4	2	—	—	—	—
Rubber products.....	7	—	2	5	—	—	—	—
Miscellaneous manufactures.....	67	16	25	20	6	—	—	—
<i>Nonmanufacturing</i>								
Extraction of minerals.....	90	5	7	34	21	16	5	2
Transportation and communication.....	198	42	93	49	2	10	1	1
Trade.....	138	48	56	27	6	1	—	—
Domestic and personal service.....	93	36	32	13	6	4	2	—
Professional service.....	23	8	10	4	1	—	—	—
Building and construction.....	139	29	68	35	4	3	—	—
Agriculture, etc.....	29	2	6	11	1	9	—	—
Relief work.....	95	7	34	31	14	8	1	—
Other nonmanufacturing industries.....	17	8	8	1	—	—	—	—
Interindustry.....	1	—	—	—	—	1	—	—
General.....	1	—	—	—	—	—	—	1

## Causes

OF THE 2,014 strikes beginning in 1935, the major issues in 47.3 percent were union recognition and other matters pertaining to organization. The major causes in 38.2 percent were wages or hours. In the remaining strikes the major issues were sympathy with other strikes, questions of jurisdiction, union rivalry, and other miscellaneous causes or grievances.

Although nearly half of the strikes were called over union organization matters primarily, these strikes were small on the average, only about one-fourth of the total number of workers being included in this group.

Relatively few strikes were called because of dissatisfaction with working hours. Half of the workers who went on strike during the year did so primarily to obtain increased wages. The large bituminous-coal strike accounted for approximately 70 percent of the workers in this group. Excluding these 400,000 miners, more workers were involved in strikes due to union organization matters than strikes over wages and hours.



Table 6.—Major Issues Involved in Strikes Beginning in 1935

Major issues	Strikes		Workers involved	
	Number	Percent of total	Number	Percent of total
All issues.....	2,014	100.0	1,117,213	100.0
<b>Wages and hours.....</b>	<b>799</b>	<b>39.7</b>	<b>672,411</b>	<b>59.8</b>
Wage increase.....	364	18.1	564,080	50.0
Wage decrease.....	187	9.3	82,146	7.3
Wage increase, hour decrease.....	96	4.9	30,941	2.8
Wage decrease, hour increase.....	75	3.7	16,933	1.5
Hour increase.....	32	1.6	6,060	.5
Hour decrease.....	13	.6	2,351	.2
<b>Organization.....</b>	<b>943</b>	<b>47.3</b>	<b>393,127</b>	<b>35.2</b>
Recognition.....	189	9.4	36,629	3.3
Recognition and wages.....	194	9.6	98,370	8.8
Recognition and hours.....	7	.3	567	( <sup>1</sup> )
Recognition, wages, and hours.....	170	8.4	96,562	8.7
Closed shop.....	153	7.6	46,672	4.2
Violation of agreement.....	12	.6	8,313	.7
Discrimination.....	227	11.4	36,086	3.2
<b>Miscellaneous.....</b>	<b>293</b>	<b>14.5</b>	<b>181,846</b>	<b>16.3</b>
Sympathy.....	40	2.0	60,960	5.5
Different unions competing for control.....	12	.6	8,108	.7
Jurisdiction.....	25	1.2	3,459	.3
Other.....	216	10.7	79,016	7.1

<sup>1</sup> Less than 1/10 of 1 percent.

## Duration

THERE were 2,003 strikes which ended in 1935 and the average duration of this group was nearly 24 calendar days. More than one-third of them ended in less than a week after they began and 57 percent lasted less than one-half month. There were 510 strikes which lasted a month or more.

The longest strikes, on the average, were in the industries manufacturing stone, clay, and glass products, where the average duration was 47.6 calendar days. The industrial group with the shortest strikes, on the average, was the group manufacturing chemicals and allied products, where the average duration was 10 calendar days.

In the group of 99 strikes (shown in table 7) which lasted for 3 months or more, the most important were the strike of employees of the New York Shipbuilding Corporation at Camden, N. J., which began in May and ended in August;<sup>1</sup> the general lumber strike in the Pacific Northwest which began in May and gradually came to a close through settlements with individual employers by the latter part of August;<sup>2</sup> the strike of workers employed by the National Biscuit Co. in New York, New Jersey, Pennsylvania, and Georgia, which began early in January and ended late in April;<sup>3</sup> and the strike of longshoremen in Gulf ports which began October 1 and came to a close in December.<sup>4</sup>

<sup>1</sup> See Monthly Labor Review for November 1935 (p. 1288).<sup>2</sup> Ibid., September 1935 (p. 656).<sup>3</sup> Ibid., June 1935 (p. 1534).<sup>4</sup> Ibid., February 1936 (p. 392).



Table 7.—Duration of Strikes Ending in 1935

Industrial group	Total strikes	Average duration (calendar days)	Number of strikes with duration of--					
			Less than 1 week	1 week and less than 1 month	1 month and less than 2 months	2 months and less than 3 months	3 months or more	
All industries.....	2,003	23.6	700	437	347	284	127	90
Manufacturing								
Iron and steel and their products, not including machinery.....	60	20.7	21	14	10	11	9	4
Machinery, not including transportation equipment.....	53	27.0	17	9	12	7	6	2
Transportation equipment.....	37	18.9	14	12	7	2	1	1
Nonferrous metals and their products.....	44	20.2	15	9	10	8	1	1
Lumber and allied products.....	123	27.5	34	29	24	32	7	7
Stone, clay, and glass products.....	37	47.6	6	8	3	8	5	7
Textiles and their products.....	457	28.0	139	117	86	73	41	31
Leather and its manufactures.....	81	26.8	26	14	16	12	6	5
Food and kindred products.....	102	25.7	30	18	15	21	4	4
Tobacco manufactures.....	6	40.0	1	1	1	2	1	1
Paper and printing.....	50	27.6	19	9	7	7	3	8
Chemicals and allied products.....	8	10.0	3	4	1	1	1	1
Rubber products.....	7	19.7	3	1	1	1	1	1
Miscellaneous manufactures.....	66	35.6	14	9	13	15	12	5
Nonmanufacturing								
Extraction of minerals.....	92	24.6	35	20	13	14	3	7
Transportation and communication.....	106	14.7	106	44	19	16	5	6
Trade.....	137	19.3	45	31	29	18	9	3
Domestic and personal service.....	92	21.7	28	13	18	14	4	5
Professional service.....	22	11.8	12	4	5	1	1	1
Building and construction.....	140	18.2	40	41	29	14	4	3
Agriculture, etc.....	28	14.9	12	5	6	5	1	1
Relief work.....	95	14.5	44	20	21	4	5	1
Other nonmanufacturing industries.....	16	10.3	9	5	1	1	1	1
Interindustry.....	1	1.0	1	1	1	1	1	1
General.....	1	2.0	1	1	1	1	1	1

## Results

BECAUSE of the many complex factors involved in the causes and aims of a strike, it is sometimes very difficult to interpret accurately and to measure the degree of its success or failure. For instance, a group of workers may strike for union recognition, but may return to work without recognition when the employer offers them a wage increase or makes other concessions. Each of the opposing parties may, at the beginning or sometime during the progress of the dispute, demand much more than it expects or hopes to obtain, thus making it difficult to evaluate the terms of settlement with the original demands or expectations.

Also, the actual results of a strike may not be known for a considerable time after the dispute has ended and may be quite different from the apparent results at the close of the strike. Workers may return to work after a strike, appearing to have won none of their demands, yet the experience and the loss of production might influence the employer to give his employees better working conditions in





order to avoid interruptions in the future. On the other hand, workers may go back after a strike, having apparently won a complete victory, yet the strike may be the basis for the employer's decision to clean up a few odds and ends of work and then go out of business or move to a new locality. These far-reaching results cannot be measured or known. Any statistical measurement of the results of a strike must necessarily be based on the apparent results or terms of agreement at the close of the dispute, and these results must be measured in relation to the conditions existing and the demands made when the strike was called.

Because of the many intangible features inherent in the nature of labor disputes, the Bureau does not attempt categorically to define the results as successful or unsuccessful. Rather, an attempt is made to evaluate all the complex-situations involved and to indicate the relative degree of gains or losses to workers resulting from the strike or lockout.

Of the 2,003 strikes ending in 1935, 44.3 percent resulted in substantial gains to the workers, 18.7 percent resulted in partial gains or compromises, and 33.4 percent resulted in little or no gains to workers. At least 15 percent of the first group were defensive strikes, that is, called in protest against wage reductions, violation of agreements, etc. Strictly speaking, the results of these strikes, although favorable to the workers, did not result in net gains over previous conditions. More than half of the 1,101,902 workers involved in the strikes ending in 1935 obtained substantially what they set out to gain and an additional one-fourth obtained partial gains or compromises.

The results of the 2,003 strikes which ended in 1935, in relation to the major issues involved, are shown in table 9. The proportion of strikes which resulted in substantial gains to workers was about the same in the wage and hour group as in the strikes over organization matters.

Table 8.—Results of Strikes Ending in 1935

Result	Strikes		Workers involved	
	Number	Percent of total	Number	Percent of total
Total	2,003	100.0	1,101,902	100.0
Substantial gains to workers	886	44.3	596,233	54.0
Partial gains or compromises	374	18.7	296,885	26.9
Little or no gains to workers	669	33.4	181,596	14.7
Jurisdiction or rival unions	37	1.8	11,640	1.1
Indeterminate	24	1.2	34,755	3.2
Not reported	13	.6	771	.1



Table 9.—Results of Strikes Ending in 1935 in Relation to Major Issues Involved

Major issues	Total	Number of strikes resulting in—					
		Substantial gains to workers	Partial gains to workers	Little or no gains to workers	Jurisdictional or rival union settlements	Indeterminate	Not reported
All issues.....	2,003	886	374	669	37	24	13
<b>Wages and hours.....</b>	<b>780</b>	<b>347</b>	<b>180</b>	<b>337</b>			<b>6</b>
Wage increase.....	368	174	76	113			6
Wage decrease.....	178	71	31	76			
Wage increase, hour decrease.....	96	45	23	27			1
Wage decrease, hour increase.....	73	34	13	26			
Hour increase.....	33	18	4	11			
Hour decrease.....	12	5	3	4			
<b>Organization.....</b>	<b>945</b>	<b>435</b>	<b>171</b>	<b>339</b>		<b>8</b>	<b>4</b>
Recognition.....	179	90	18	69		1	1
Recognition and wages.....	194	93	46	54			1
Recognition and hours.....	7	3	3	1			
Recognition, wages, and hours.....	168	83	41	43			1
Closed shop.....	151	74	20	55		1	1
Violation of agreement.....	14	10	3	1			
Discrimination.....	232	12	40	107		3	
<b>Miscellaneous.....</b>	<b>398</b>	<b>194</b>	<b>83</b>	<b>83</b>	<b>87</b>	<b>19</b>	<b>3</b>
Sympathy.....	42	14	11	10		7	
Different unions competing for control.....	12				12		
Jurisdiction.....	25				25		
Other.....	218	90	42	71		12	3
Not reported.....	1			1			

## Methods of Negotiating Settlements

THE most common method of settling strikes in 1935 was through direct negotiations between employers and union representatives. Use of this method brought about settlements in 38.5 percent of the total number of strikes which ended during the year. Government conciliators and labor boards assisted in working out settlements in 31.3 percent of the total number. This group included many of the larger strikes, as evidenced by the fact that 59.4 percent of the workers obtained settlements through the assistance of Government conciliators.

Of the 627 strikes which Government conciliators or labor boards assisted in settling, 605 were settled by conciliation or mediation methods and 22 were settled by arbitration.

Thirty-seven strikes (1.8 percent of the total) were settled with the assistance of private conciliators or arbitrators. Seventeen of these were settled by conciliation methods and 20 by arbitration.

More than one-fifth of the strikes which ended in 1935 were terminated without formal settlements, and practically all of these strikes were lost by the workers. In some cases the workers returned to work under old conditions and with no formal settlements. In other cases the strikes were terminated and lost when employers liquidated their businesses or moved to other localities, the strikers being left to find new employment. In still other cases the strikes were lost when employers hired new workers to take the places of strikers.



Table 10.—Methods of Negotiating Settlements of Strikes Ending in 1935

Negotiations toward settlements carried on by—	Strikes		Workers involved	
	Number	Percent of total	Number	Percent of total
Total.....	2,003	100.0	1,101,902	100.0
Employers and workers directly.....	107	5.3	24,160	2.2
Employers and representatives of organized workers directly.....	700	35.5	264,072	24.0
Government conciliators or labor boards.....	627	31.3	654,188	59.4
Private conciliators or arbitrators.....	37	1.8	11,664	1.1
Terminated without formal settlement.....	457	22.8	146,400	13.3
Not reported.....	6	.3	480	( <sup>1</sup> )

<sup>1</sup> Less than 1/16 of 1 percent.

## Labor Organizations Involved

IN OVER three-fourths of the strikes which ended in 1935, American Federation of Labor unions were involved. Unions independent of the A. F. of L. were involved in 13 percent of the strikes, and 8 percent were carried on without union leadership. Many of the strikes in the latter group were on relief work and W. P. A. projects.

In most cases the union involved called a strike and furnished active leadership throughout the dispute. In some cases, however, strikes unauthorized by the proper union official were called by the workers and later the union gave formal endorsement and assisted in arranging the settlement. In still other cases the workers were unorganized at the beginning of the strike, but the union stepped in and offered leadership and assisted in obtaining the settlement as a means of organizing the workers. In table 11 the union which identified itself with a strike, either at the beginning or later, is regarded as the organization involved.

Table 11.—Strikes Ending in 1935 by Types of Labor Organizations Involved

Labor organization involved	Strikes		Workers involved	
	Number	Percent of total	Number	Percent of total
Total.....	2,003	100.0	1,101,902	100.0
American Federation of Labor.....	1,551	77.5	972,171	88.3
Railroad Brotherhoods.....	1	( <sup>1</sup> )	28	( <sup>1</sup> )
Independent.....	258	13.0	56,271	7.9
American Federation of Labor and another.....	11	.5	3,026	.7
Company unions.....	15	.7	2,440	.2
Organization involved but type not reported.....	2	.1	64	( <sup>1</sup> )
No organization.....	160	8.0	32,369	2.9
Not reported as to whether or not any organization was involved.....	5	.2	533	( <sup>1</sup> )

<sup>1</sup> Less than 1/16 of 1 percent.





## BOARD EXHIBIT No. 10

6/11/37

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Table 6.—Major Issues Involved in Strikes Beginning in 1935.

Major Issues	Strikes		Workers Involved	
	Number	Percent of total	Number	Percent of total
All issues.....	2,014	100.0	1,117,213	100.0
Wages and hours.....	769	38.2	672,511	60.2
Wage increase.....	364	18.1	564,080	50.0
Wage decrease.....	187	9.3	52,146	4.7
Wage increase, hour decrease.....	98	4.9	30,941	2.8
Wage decrease, hour increase.....	75	3.7	16,933	1.5
Hour increase.....	32	1.6	6,060	.5
Hour decrease.....	13	.6	2,351	.2
Organization.....	952	47.3	293,162	26.2
Recognition.....	189	9.4	36,629	3.3
Recognition and wages.....	194	9.6	68,370	6.1
Recognition and hours.....	7	.3	557	(1)
Recognition, wages, and hours.....	170	8.4	96,562	8.7
Closed shop.....	153	7.6	46,672	4.2
Violation of agreement.....	12	.6	8,313	.7
Discrimination.....	227	11.4	36,059	3.2
Miscellaneous.....	293	14.5	151,540	13.6
Sympathy.....	40	2.0	60,960	5.5
Different unions competing for control...	12	.6	8,105	.7
Jurisdiction.....	25	1.2	3,459	.3
Other.....	216	10.7	79,016	7.1

(1) Less than 1/10 of 1 percent.

Source: United States Department of Labor, Bureau of Labor Statistics Monthly Labor Review, May, 1936, p. 1308.

1632

Board Exhibit No. 11.

199

BOARD EXHIBIT NO. 11.

6/11/37

Form 16

C 390457

Amalgamated Association of Iron, Steel  
And Tin Workers of North America  
(Steel Workers Organizing Committee)  
3600 Grant Building : Pittsburgh, Pa

Date.....19

I hereby accept membership in the Amalgamated Association of Iron, Steel & Tin Workers of North America, through the Steel Workers Organizing Committee, and of my own free will hereby authorize the Steel Workers Organizing Committee, its agents or representatives to act for me as a collective bargaining agency in all matters pertaining to rates of pay, wages, hours of employment, or other conditions of employment.

Employed by.....

(Name of Company)

(Plant)

(Address of Company)

(Department)

If not working check ☐

Name

Address

Organizer.

C No. 390457

Form 16  
Member's  
Receipt

Steel Workers Organizing Committee  
3600 Grant Building, Pittsburgh, Pa.

This is to Certify that

(Name of Member)

has accepted membership in the Amalgamated Association of  
Iron, Steel & Tin Workers of North America.

Date....., 19.....

Organizer.  
(Union Label)

200

BOARD EXHIBIT NO. 12.

Agreement

This agreement is entered into by and between the Fansteel Metallurgical Corporation, party of the first part, hereinafter called the employer, and Lodge 66 of the Amalgamated Association of Iron, Steel, and Tin Workers of North America, hereinafter called the union, this day of 1936.

Section I. It is agreed that the Fansteel Metallurgical Corporation will recognize and deal with the Amalgamated Association of Iron, Steel, and Tin Workers of North America in the settlement of all disputes and bargaining on the question of hours of labor, rates of pay, and working conditions, and will recognize and deal with the officers of the above-named union on all matters affecting its members in connection with their employment.

Section II, Article I. Wage rates and overtime rates based upon classification of labor shall be worked out between a committee from the local union and the management that will be agreeable to both parties concerned, this work to be completed within thirty days of the acceptance of this agreement. All wages are to be paid weekly, preferably on Friday. A satisfactory pension system shall be worked out. No forman shall work on any machine.

Article II. An arrangement shall be worked out jointly for the purpose of adjudication of disputes, such to be done within sixty days. All employees shall continue at work without interruption pending the final disposition of such disputes. Failing to do so the union agrees to discipline any one violating this provision.

Article III. Any employee discharged shall have the right, within two days after notice of such discharge, to present his case to the tribunals that may be set up, and in the event it is decided that said employee has been unjustly discharged said employee shall be re-instated and compensated for all time lost at the rate of pay received while at work.

Section III. It is further agreed that the principle of the eight hour day and the forty hour week is hereby recognized and should be worked out on a practical basis by said committee in agreement with the management. All hours of work over eight hours a day shall be considered over time and shall be paid at the overtime rate of time and one-half. Work on

Saturday shall be rated as overtime and paid at the rate of 201 time and one-half. There is to be no work on Sundays and legal holidays except by men needed for the maintaining of the safety of the plant.

Section IV. Seniority rights to be classed from the time of entry into the service of the company and not from the time employed on any certain job, and the total disregard for loss of time caused by lack of work, sickness, or any temporary disability.

Section V. A proper ventilation system shall be instituted in every department, especially so to draw the smoke away from cutting machines. The ventilator fan in the cutting room is not adequate. Exhaust fans on all carbon jobs. Tantalum welding under CTC should have a better ventilating system installed. All welding shall be isolated. Hot water in wash rooms. Drinking water filtered and cooled. First aid kit in each department. Machinery kept in repair.

Section VI. It is further agreed that all employees of the Fansteel Metallurgical Corporation will be members of the Amalgamated Association of Iron, Steel, and Tin Workers of North America. New employees hired shall make their application for membership to the above-said union within fifteen days of the date of their employment. All dues of said employees shall be deducted monthly by the company from the pay checks and turned over to the financial secretary of the above-named union.

Section VII. The above-mentioned committee shall be empowered to make proper adjustments from time to time for the benefit of the employer and the union, strictly in adherence to the principles of collective bargaining.

Article II. In the event said committee fails to reach a satisfactory agreement in any controversy the question involved should be submitted for mediation and arbitration to a committee of five, two to be selected by the employer, two to be selected by the union, and the fifth to be selected by the four selected members of the committee; said fifth person so selected shall be one who shall have a neutral position in the matter. The decision of the committee shall be binding.

Article III. This agreement shall be operative for one year from the above-mentioned date.

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202

BOARD EXHIBIT NO. 13.

6/11/37.

Plan of  
Employee Representation  
in  
Waukegan Works  
of  
American Steel & Wire Company

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Adopted by Employees  
and  
Accepted by Management  
of  
Waukegan Works  
of  
American Steel & Wire Company

---

As Constituting An Agreement  
Between Management And Employees  
For Collective Bargaining

---

February 23, 1934

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Plan of  
Employee Representation  
Waukegan Works  
American Steel and Wire Company

In order to give the employes of the American Steel and Wire Company a voice in regard to the conditions under which they labor, and to provide an effective means of collective bargaining between the management and employes on matters pertaining to industrial relations, the management of Wauke-

gan Works, American Steel and Wire Company, submitted to the Waukegan Works' employes a plan of employe representation. Under that plan the employes elected their representatives in June 1933. The plan was revised and adopted by the employes in February 1934. Under the revised plan, the employes elected their representatives in June 1934. The plan of employe representation as adopted by the employes, and as further amended by their duly elected representatives, is accepted by the management of the American Steel and Wire Company.

C. Blackmann,  
*President.*

Property of \_\_\_\_\_

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## I.

## Representation

1. Representation shall range from one Representative for each 100 employes in the small plants to one Representative for each 300 employes in the larger plants.

Minimum number of Representatives 5

Maximum number of Representatives 30

Such adjustments as may be necessary to meet special cases shall be made.

2. For the purpose of applying the unit of representation, the plant should be subdivided according to departments and natural sub-divisions. Wherever it is necessary to group a number of small departments in order to complete a unit of representation, regard shall be had to logical groupings and location.

3. Adjustment in units of representation shall be made in accordance with the recommendations of the Committee on Rules.

## II.

## Terms of Representatives.

1. Representatives shall be elected for a term of one year, and shall be eligible for re-election.

2. A Representative may be recalled by a two-thirds majority vote by secret ballot of the voters in his Department or unit. Such election for recall shall be called by the Committee



on Rules not sooner than fifteen days nor later than thirty days following its approval of a petition signed by two-thirds of the voters in the unit of representation of the Representative; said petition to state reasons for recall.

3. A Representative shall be deemed to have vacated office upon his appointment to such regular position as would bring him within the meaning of Paragraph 3, Section III, entitled: "Qualifications of Representatives and Voters".

4. Vacancies in the office of Representative may be filled, in the discretion of the Committee on Rules, by special elections conducted in the same manner as the general elections.

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### III.

#### Qualifications of Representatives and Voters

1. There shall be no restriction or limitation in the choice of representatives, except that they shall be American citizens and (except as provided in Paragraph 3; section 3.)

2. All employees who are enrolled on the Company's pay rolls shall be entitled to vote (except as provides Paragraph 3, Article 3.)

3. Company officials and persons having the right to hire or discharge shall not be eligible as Representatives or qualified to vote for Representatives.

4. This Plan shall in no way discriminate against any employe because of race, sex or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

### IV.

#### Nominations and Elections

1. Nominations and elections shall be held annually.

2. Nominations shall be held on the second Monday and elections on the following Friday of the month selected. In the event of either of these days being a holiday, another day shall be selected by the Committee on Rules.

3. The total number of Employes' Representatives shall be chosen at each annual election.

4. The nominations and elections shall be conducted by the employes themselves, in accordance with these rules and regulations.

5. Nominations and elections shall be by secret ballot, and so conducted as to avoid undue influence or interference with voters in any manner whatsoever, and to prevent any fraud in the casting or counting of ballots.

6. On the day of nominations, each duly qualified voter shall be furnished with a ballot stating the number of persons for whom he is entitled to vote, on which he shall write the names, or check number, of the person, or persons, whom he desires to nominate as Representative, or Representatives of his Department or unit.

7. A voter may place in nomination not more than the number of Representatives to which his Department, or 206 unit, is entitled.

8. If on any ballot, the same name is placed in nomination more than once, it shall be counted but once.

9. Should the number of persons nominated on any ballot exceed the permitted number as stated on the ballot, the ballot shall be void.

10. There shall be two persons nominated for every person to be elected.

11. Those who have received the largest number of votes up to twice the number of Representatives to be elected in the Department or District shall be declared nominated and shall be candidates for election.

12. On the day of elections, each duly qualified voter shall be furnished by the Committee on Rules with a ballot on which the names and check numbers of the candidates shall be printed in the order of number of votes received at nominations. The voter shall indicate his preference by placing a cross (X) opposite the names and check numbers of the candidates of his choice.

13. Candidates to the number of Representatives to which a Department, or unit, is entitled may be voted for and this number shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

14. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, and the ballots shall be counted under the direction and supervision of said Committee. The candidates receiving the highest number of votes shall be declared elected.

15. In the event of a tie or a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules.

16. The Committee on Rules may make such provision as

they may consider necessary for assisting any voter who may request, in properly marking his ballot.

## V.

### Management's Representative.

1. The Company shall appoint a Management's Representative. The Management's Representative shall keep the Management in touch with the Representatives, and represent the Management in negotiations with the Representatives, the Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of them, from time to time, with reference to matters of concern to employees.

2. The management of the works and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for any legitimate reasons, is vested exclusively in the Management; and, except as expressly provided herein, these rights shall not be bridged by anything contained herein.

## VI.

### Committees

1. After each annual election, the Representatives shall immediately meet for the purpose of electing a Chairman, Secretary, a General Committee, and Committee on Rules, and for selecting members of such other Committees as are found necessary by the Committee on Rules for the consideration of the following subjects:

Rules.

Ways and Means.

Safety and Prevention of Accidents.

Economy and Waste Prevention.

Wages, Piece Work, and Tonnage Rates.

Hours of Employment and Working Conditions.

Housing and Living Conditions.

Health and Works Sanitation.

Education and Publications.

Athletics and Recreation.

Continuity of Employment and Condition of Industry.

2. The General Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the Representatives shall be members of the General Committee.

3. Each Committee shall be composed of five members, and shall appoint its own Chairman and Secretary.

4. Vacancies on Committees shall be filled at a regular meeting of the Representatives.

5. Joint Committees shall consist of the Committees 208 of the Employees' Representatives with the addition of Representatives named by the Management, who may equal but shall not exceed in number the Employees' Representatives.

6. The General Committee of Employees' Representatives together with the General Committee of Management's Representatives shall constitute the General Joint Committee on Appeals.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules.

8. Wherever the word "Committee" is used throughout this instrument, it shall mean the Committee of Employees' Representatives unless a "Joint Committee" is specified.

## VII.

### Committee Meetings

1. Regular meetings of Committees shall be held once a month.

2. On alternate months, the Committees shall meet as Joint Committees.

3. The Committee shall meet between the hours of three and five in the afternoon, unless otherwise arranged for on joint approval of the Chairman of the Employees' Representatives and the Management's Representative.

4. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the Employees' Representatives and the Management's Representatives.

5. For time necessarily lost by employees in actual attendance at regular meetings, or at special meetings of conferences jointly approved, Representatives shall receive from the Company payment commensurate with their average earnings.

6. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employes of the Department or unit they represent.

7. A Committee, when concerned with matters of special interest to any particular Department or class of employes, shall have the right of inviting into conference like Representatives of the Employes and of the Management likely to be specially interested in such matters.

209 8. Any matter may be referred by the Management through the Management's Representative to any Committee or Joint Committee for consideration and report, and any matter may be presented by a Committee or joint committee to the Management through the Management's Representative.

9. The Joint Committee on Rules shall arrange a suitable place for meetings of the Representatives, and of the several Committees and Joint Committees.

### VIII.

#### Conferences.

A conference of Employees' Representatives of the plant or a conference of such Employees' Representatives and of Representatives of Management of the plant may be held from time to time as determined by the Committee on Rules or the Joint Committee on Rules, as the case may be. At such conferences, negotiations may be carried on between the Representatives of the employes and the Representatives of the Management on the subjects specified in Section VI, Paragraph 1.

### IX.

#### Procedure for Adjustments

1. Any matter which, in the opinion of any employe, or any group of employes requires adjustment, and which such employe, or group of employes, has been unable to adjust, either directly or through his or their Representatives with the foremen of the work on which he or they are engaged, may be taken up by such employe, or group of his employes, either in person or through any Representative of his or their Department in writing.

First—With the Superintendent concerned.

Second—With the Management's Representative.

Third—With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless a satisfactory disposition of any such matter has been effected within a reasonable time, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the General Joint Committee on Appeals 210 by a request in writing addressed to said Committee, specifying in detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The General Joint Committee on Appeals shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

3. If the General Joint Committee on Appeals shall fail to effect a settlement, the matter shall be referred to the President of the Company and the Employees' Representatives on the General Joint Committee on Appeals for settlement. If the President of the Company and the majority of the Employees' Representatives on the General Joint Committee on Appeals shall fail to effect a satisfactory settlement, they may refer the matter to arbitration.

## X.

### Guaranteeing the Independence of Employees and Representatives

It is understood and agreed that no employee will in any way be discriminated against for exercising any of his rights under this Plan.

It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him, on account of his acts in his representative capacity, to any of the Superior



Officers, to the General Joint Committee and to the President of the Company.

Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the State Department of Labor or the Secretary of Labor of the United States. The Company shall furnish the said State Department of Labor or the said Secretary with every facility for the determination of the facts, and the findings and 211 recommendations of the said State Department of Labor or the said Secretary shall be final and binding.

## XI.

### Amendments

Any method of procedure hereunder may be amended as follows:

First, amendments relating exclusively to the employe organization may be made at any time by two-thirds vote of the Employe Representative Committee at a meeting duly called and held for such purpose.

Second, amendments relating to both employes and management may be made at any time by two-thirds vote of the Joint Committee at a meeting duly called and held for that purpose.

## XII.

### Right of Termination

This Plan shall be and remain in full force and effect unless and until terminated by a vote of the majority of the employes at any annual election.

## BOARD EXHIBIT NO. 14.

6/11/37

(Letterhead of Fansteel Metallurgical Corporation,  
North Chicago, Ill.)

September 22, 1936

To Employees of Fansteel Metallurgical Corporation:

A certain group of our employees has presented for the consideration of the management a closed shop union agreement. This we can not agree to.

The rare metal business is scientific and highly specialized. We are not part of a large mass production industry such as steel. Our problems are different and unique. Four years ago there was doubt as to whether the company could survive its financial and business troubles. To-day, there is no question of its ability to provide employment and opportunity unless its progress is broken by internal troubles.

This request we feel makes it necessary for the management at this time to state its policy governing its relations with its employees to clarify the present situation:

(1) The management will not sign the closed shop agreement nor any agreement which has for its objective the virtual control of the relations of the company and its various employees. We will not enforce against loyal workers union domination through the forced operation of the "check-off" system of payroll deductions as practiced by the miners' unions. The company will not compel any employee to join any organization or to pay each week or month for the privilege of working in our plant. Fansteel is not and never has been a sweat shop. We want no discrimination or dictation against any of our loyal employees; nor any lessening of their free opportunity for individual progress with just reward for meritorious and conscientious service.

In the best interests of everyone concerned, management reserves its right to reward individual merit and efficient work, and to protect and preserve the rights of its individual workers. Likewise, management reserves the right to discontinue the services of any whose work, abilities or general conduct is not in keeping with the best interests of the business and its employees as a whole.

(2) We will continue to operate forty hours a week in ac-

cordance with the policy adopted voluntarily in 1933. All time over forty hours will be paid for at the rate of time and one-half.

We recognize the desirability of doing away with Saturday and Sunday work and an earnest effort will be made to enlarge our facilities to accomplish this. Obviously, emergency and rush work will control to some degree the realizing of this objective.

214 (3) Good work and length of loyal service have been regularly rewarded from time to time with wage increases to the fullest extent that competitive conditions and company finances would permit. The company will continue this policy of periodic reviews of wage schedules and appropriate adjustments will be made in order to maintain the highest possible standard of wage levels.

(4) It has always been the policy of the company to favor its old employees with first call on all of the advantages of employment wherever possible. Loss of time caused by lack of work, sickness or temporary disability has never influenced or affected unfavorably the company's regard or consideration of its senior employees.

(5) It has been the policy of the company to provide adequate and safe equipment and to maintain the equipment in good order to the fullest extent of its available finances. In the past eight months many improvements have been installed and more are going in daily. Ventilation, dust-extraction and fume extraction systems will be installed wherever necessary. Likewise, exhaust or ventilating fans will be installed on all carbon jobs. All arc-welding (where not now isolated) will be isolated. Hot water is being installed in wash rooms; cooled drinking water provided; adequate first aid established; machinery kept in good repair for safety and proper work; and similar desirable safeguards for health and safety and comfort carried forward to completion.

(6) We have always made it easy for employees to reach the highest company officers. We will continue this policy of an open door for the consideration of any grievance or suggestion.

It is the sincere hope of the company that this re-statement of policy will promote a clearer understanding, and reassure our people of the company's very sincere interest in their well-being and general progress.

Fansteel Metallurgical Corporation,  
Robert J. Aitchison,  
President.

## BOARD EXHIBIT NO. 15.

6/11/37

**A Plan of Employee Representation Which Has Been Pronounced Successful in a Large Number of Plants****I.****Representation**

1. Representation shall range from one Representative for each 100 employees in the small plants to one Representative for each 300 employees in the larger plants.

Minimum number of Representatives 5

Maximum number of Representatives 30

Such adjustments as may be necessary to meet special cases shall be made.

2. For the purpose of applying the unit of representation, the plant should be subdivided according to departments and natural sub-divisions. Wherever it is necessary to group a number of small departments in order to complete a unit of representation, regard shall be had to logical groupings and location.

3. Adjustment in units of representation shall be made in accordance with the recommendations of the Committee on Rules.

**II.****Terms of Representatives**

1. Representatives shall be elected for a term of one year, and shall be eligible for re-election.

2. A Representative may be recalled by a two-thirds majority vote by secret ballot of the voters in his Department or unit. Such election for recall shall be called by the Committee on Rules not sooner than fifteen days nor later than thirty days following its approval of a petition signed by two-thirds of the voters in the unit of representation of the Representative; said petition to state reason for recall.

3. A Representative shall be deemed to have vacated office upon his appointment to such a regular position as would bring him within the meaning of Paragraph 3, Section III, entitled: "Qualifications of Representatives and Voters."

4. Vacancies in the office of Representative may be filled, in the discretion of the Committee on Rules, by special elections conducted in the same manner as the general elections.

### III.

#### Qualifications of Representatives and Voters

1. There shall be no restriction or limitation in the choice of representatives, except that they shall be American and except as provided in Paragraph 3, Section 3.

2. All employees who are enrolled on the Company's pay rolls shall be entitled to vote (except as provides Paragraph 3, Article 3.)

3. Company officials and persons having the right to hire or discharge shall not be eligible as Representatives or qualified to vote for Representatives.

4. This Plan shall in no way discriminate against any employee because of race, sex or creed, or abridge or conflict with his or her right to belong or not to belong to any lawful society, fraternity, union or other organization.

### IV.

#### Nominations and Elections

1. Nominations and elections shall be held annually.

2. Nominations shall be held on the second Monday and elections on the following Friday of the month selected. In the event of either of these days being a holiday, another day shall be selected by the Committee on Rules.

3. The total number of Employees' Representatives shall be chosen at each annual election.

4. The nominations and elections shall be conducted by the employees themselves in accordance with these rules and regulations.

5. Nominations and elections shall be by secret ballot and so conducted as to avoid undue influence or interference with voters in any manner whatsoever and to prevent any fraud in the casting or counting of ballots.

6. On the day of nominations, each duly qualified voter shall be furnished with a ballot stating the number of persons for whom he is entitled to vote, on which he shall write the name, or check number, of the person, or persons, whom

he desires to nominate as Representative, or Representatives of his Department or unit.

7. A voter may place in nomination not more than the number of representatives to which his Department, or unit is entitled.

216 8. If on any ballot, the same name is placed in nomination more than once, it shall be counted but once.

9. Should the number of persons nominated on any ballot exceed the permitted number as stated on the ballot, the ballot shall be void.

10. There shall be two persons nominated for every person to be elected.

11. Those who have received the largest number of votes up to twice the number of Representatives to be elected in the Department or District shall be declared nominated and shall be candidates for election.

12. On the day of elections, each duly qualified voter shall be furnished by the Committee on Rules with a ballot on which the names and check numbers of the candidates shall be printed in the order of number of votes received at nominations. The voter shall indicate his preference by placing a cross (X) opposite the names and check numbers of the candidates of his choice.

13. Candidates to the number of Representatives to which a Department, or unit, is entitled may be voted for, and this number shall be stated on the ballot. If this number is exceeded, the ballot shall be void.

14. Each voter shall deposit his own ballot in a box provided for the purpose by the Committee on Rules, and the ballots shall be counted under the direction and supervision of said Committee. The candidates receiving the highest number of votes shall be declared elected.

15. In the event of a tie or a controversy arising concerning any nomination or election, it shall be referred to and decided by the Committee on Rules.

16. The Committee on Rules may make such provision as they may consider necessary for assisting any voter who may so request, in properly marking his ballot.

## V.

### Management's Representative

1. The Company shall appoint a Management's Representative. The Management's Representative shall keep the



Management in touch with the Representatives, and represent the Management in negotiations with the Representatives, their Officers and Committees. He shall respond promptly to any request from Representatives, and shall interview all of them, from time to time, with reference to matters of concern to employees.

2. The management of the works and the direction of the working forces, including the right to hire, suspend or discharge for proper cause, or transfer, and the right to relieve employees from duty because of lack of work, or for other legitimate reasons, is vested exclusively in the Management; and, except as expressly provided herein, these rights shall not be abridged by anything contained herein.

## VI.

### Committees

1. After each annual election, the Representatives shall immediately meet for the purpose of electing a Chairman, Secretary, a General Committee, and a Committee on Rules, and for selecting members of such other Committees as are found necessary by the Committee on Rules for the consideration of the following subjects:

Rules.

Ways and Means.

Safety and Prevention of Accidents.

Economy and Waste Prevention.

Wages and Piece Work.

Hours of Employment and Working Conditions.

Housing and Living Conditions.

Health and Works Sanitation.

Education and Publications.

Athletics and Recreation.

Continuity of Employment and Condition of Industry.

2. The General Committee shall consider all matters not falling within the scope of any other Committees herein provided for, and the Chairman and Secretary of the Representatives shall be members of the General Committee.

3. Each Committee shall be composed of five members, and shall appoint its own Chairman and Secretary.

4. Vacancies on Committees shall be filled at a regular meeting of the Representatives.

5. Joint Committees shall consist of the Committees of the

Employees' Representatives with the addition of Representatives named by the Management, who may equal but shall not exceed in number the Employees' Representatives.

217 6. The General Committee of the Employees' Representatives together with the General Committee of Management's Representatives shall constitute the General Joint Committee on Appeals.

7. The Joint Committees shall select their own officers and arrange their own procedure, subject to appeal, in case of controversy, to the Joint Committee on Rules.

8. Wherever the word "Committee" is used throughout this instrument, it shall mean the Committee of Employees' Representatives unless a "Joint Committee" is specified.

## VII.

### Committee Meetings

1. Regular meetings of Committees shall be held once a month.

2. On alternate months, the Committees shall meet as Joint Committees.

3. The Committee shall meet between the hours of three and five in the afternoon, unless otherwise arranged for on joint approval of the Chairman of the Employees' Representatives and the Management's Representative.

4. Special meetings of Committees and of Joint Committees may be held as occasion may require, on approval of the Chairman of the Employees' Representatives and the Management's Representatives.

5. For time necessarily lost by employees in actual attendance at regular meetings, or at special meetings of conferences jointly approved, Representatives shall receive from the Company payment commensurate with their average earnings.

6. Representatives shall have the right to appear before and be heard by a Committee considering matters of concern to the employees of the Department or unit they represent.

7. A Committee, when concerned with matters of special interest to any particular Department or class of employees, shall have the right of inviting into conference the Representatives of the Employees and of the Management likely to be specially interested in such matters.

8. Any matter may be referred by the Management through the Management's Representative to any Committee or Joint

Committee for consideration and report, and any matter may be presented by a Committee or joint committee to the Management through the Management's Representative.

9. The Joint Committee on Rules shall arrange a suitable place for meetings of the Representatives, and of the several Committees and Joint Committees.

## VIII.

### Conferences.

A conference of Employees' Representatives of the plant or a conference of such Employees' Representatives and of Representatives of Management of the plant may be held from time to time as determined by the Committee on Rules or the Joint Committee on Rules, as the case may be. At such conferences, negotiations may be carried on between the Representatives of the employees and the Representatives of the Management on the subjects specified in Section VI, Paragraph 1.

## IX.

### Procedure for Adjustments

1. Any matter which, in the opinion of any employee, or any group of employees requires adjustment, and which such employee, or group of employees, has been unable to adjust, either directly or through his or their Representatives with the foremen of the work on which he or they are engaged, may be taken up by such employee, or group of employees, either in person or through any Representative of his or their Department in writing.

First—With the Superintendent concerned.

Second—With the Management's Representative.

Third—With the Management, who shall endeavor to effect a settlement, or who may with the approval of all the parties refer the matter to proper Joint Committee.

2. Unless a satisfactory disposition of any such matter has been effected within a reasonable time, any employee through his Representative, or the Management through the Management's Representative, may require such matter to be referred to the General Joint Committee on Appeals by a request in writing addressed to said Committee, specifying in

detail the matter requiring adjustment and the reasons which warrant its consideration by said Committee.

The General Joint Committee on Appeals shall consider any such matter with reasonable promptness, at a regular or special meeting, and may adopt such means as are necessary to ascertain the facts and effect a settlement.

218 3. If the General Joint Committee on Appeals shall fail to effect a settlement, the matter shall be referred to the President of the Company and the Employees' Representatives on the General Joint Committee on Appeals for settlement. If the President of the Company and the majority of the Employees' Representatives on the General Joint Committee on Appeals shall fail to effect a satisfactory settlement, they may refer the matter to arbitration.

## X.

### Guaranteeing the Independence of Employees and Representatives

It is understood and agreed that no employe will in any way be discriminated against for exercising any of his rights under this Plan.

It is understood and agreed that each Representative shall be free to discharge his duties in an independent manner, without fear that his individual relations with the Company may be affected in the least degree by any action taken by him in good faith in his representative capacity.

To insure to each Representative his right to such independent action, he shall have the right to take the question of an alleged personal discrimination against him, on account of his acts in his representative capacity, to any of the Superior Officers, to the General Joint Committee and to the President of the Company.

Having exercised this right in the consecutive order indicated and failing a satisfactory remedy within thirty days, a Representative shall have the further right to appeal to the State Department of Labor or the Secretary of Labor of the United States. The Company shall furnish the said State Department of Labor or the said Secretary with every facility for the determination of the facts, and the findings and recommendations of the said State Department of Labor or the said Secretary shall be final and binding.

**XI.****Amendments**

Any method of procedure hereunder may be amended as follows:

First, amendments relating exclusively to the employe organization may be made at any time by two-thirds vote of the Employe Representative Committee at a meeting duly called and held for such purpose.

Second, amendments relating to both employes and management may be made at any time by two-thirds vote of the Joint Committee at a meeting duly called and held for that purpose.

**XII.****Right of Termination**

This Plan shall be and remain in full force and effect unless and until terminated by a vote of the majority of the employes at any annual election.

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**BOARD EXHIBIT NO. 16.**

6/15/37.

National Lodge

N. A.

Amalgamated Association

of

Iron, Steel and Tin Workers

To whom it may concern:

THE NATIONAL LODGE OF NORTH AMERICA  
doth hereby grant

This Warrant or Dispensation to the

Following persons who shall constitute North Chicago Lodge No. 66 of the State of Illinois located at North Chicago

John Kondrath President	_____	Treasurer
Clarence Dreyer Vice Pres't	_____	Guide
Ed. Ruck Recording Sec'y	_____	Inside Guard
Carl Swanson Financial Sec'y	_____	Outside Guard

and to their successors, who shall faithfully Watch and Guard the Principles of this Order. Your Lodge shall be entitled to a direct representation to the National Lodge of North America in accordance with the Constitution and Laws thereof for

the purpose of making Laws and regulating the Workers and Ceremonies of the Order. We therefore command you to act wisely, be diligent, benevolent, not holding anything back which would benefit our Craft and Fellow Workmen.

In Witness Whereof we hereby have subscribed our names and affixed the seal of the National Lodge of North America.

Done in Pittsburgh this Twenty-fourth day of July, Anno Domini 1936.

Louis Leonard  
*Secretary-Treasurer,*  
*National Lodge*

(Seal)  
M. J. Tighe  
*President, National Lodge*

This is a true copy of the charter of Lodge 66, Amalgamated Association of Iron, Steel and Tin Workers of North America.

John Kondrath,  
*President, Lodge 66.*

Attest:  
Carl Swanson,  
*Finan. Sec'y, Lodge 66.*

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## BOARD EXHIBIT NO. 17.

6/11/37.

## Agreement

This agreement is entered into by and between the Fansteel Metallurgical Corporation, hereinafter called the company, and Lodge 66 of the Amalgamated Association of Iron, Steel, and Tin Workers of North America, hereinafter called the union.

I. It is agreed that the company recognize the union and bargain collectively with the bargaining committee selected by the union on the question of hours of labor, rates of pay, working conditions, and other matters affecting employment.

II. Employees shall not be discharged until their individual cases have been discussed and agreed to by the employer and the union, with the exception of cases where discharge is caused by lack of work.

III. The principal of the eight hour day and the forty hour week is hereby recognized. All hours of work over eight hours each day and all work on Saturdays shall be considered overtime and shall be paid at the rate of time and one-half. Work on Sundays and legal holidays shall be paid at the rate of double time.



IV. Seniority rights to be classed from time of entry into the service of the company and not from the time employed on any certain job. Loss of time caused by lack of work, sickness, or any temporary disability shall not affect seniority standing. Seniority classification to be made by the company within sixty days from date.

V. The company agrees to install adequate equipment to provide safety, health and comfort within ninety days as per rider attached.

221 VI. The company agrees to deduct union dues from the pay check of the members of the union and to turn said amount over to the financial secretary of the union.

VII. If the parties to this agreement fail to agree, the question involved is to be submitted for mediation and arbitration to a committee of five, two to be selected by the employer, two to be selected by the union, and the fifth to be selected by four selected members of the committee. The decision of the committee shall be binding.

VIII. This agreement shall be operative for one year from this date. Dated North Chicago, Lake County, September , 1936.

Lodge 66, Amalgamated Association of Iron, Steel, and Tin Workers of North America.

Fansteel Metallurgical Corporation.

\_\_\_\_\_  
*President.*

\_\_\_\_\_  
*Recording Secretary*

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Rider

This rider is part of an agreement between the Fansteel Metallurgical Corporation and Lodge 66 of the Amalgamated Association of Iron, Steel, and Tin Workers of North America.

I. Ventilation or dust-extracting, also fume-extracting systems shall be installed wherever necessary. Exhaust or ventilating fans to be installed on all carbon jobs.

II. All arc-welding shall be isolated.

III. Hot water to be supplied in wash rooms. Filtered and cooled drinking water is to be provided.

IV. Adequate first aid department or departments to be established.

V. Machinery to be kept in repair for safety.

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## BOARD EXHIBIT 18

6/14/37

List of 84 Cards Which are Dated Prior to September 10, 1936

Aigner, Jos.	8/5 /36	
Anderson, Andy M.	7/21/36	
Ark, Steve.	7/21/36	
Berecsky, Andrew.	7/13/36	Meyer Adelman
Berecsky, Louis.	8/14/36	
Benkovich, Nick.	7/21/36	
Brown, Roy.	7/18/36	
Brunke, Edward.	7/13/36	Meyer Adelman
Canelakes, Gus.	8/ 4/36	
Camernik, Jerome, Jr.	7/13/36	Meyer Adelman
Christianson, Ted.	7/23/36	
Chudy, Jos.	8/ 5/36	
Crump, Lester.	7/13	Meyer Adelman
Crump, W. D.	8/ 5/36	
Daluga, Leo P.	7/18/36	
Devine, George W.	9/ 4/36	
Dreyer, Harold.	7/13/36	Meyer Adelman
DuBois, R. E.	8/ 5/36	
Dugan, Cornelius.	7/24/36	
224 Exhibit 18		
Fagan, Thos. E.	7/13/36	Meyer Adelman
Fellens, Frances.	8/21/36	
Fulkerson, Chas.	7/18/36	
Galbavy, Angelo.	7/14/36	Meyer Adelman
Germes, John.	7/21/36	
Graimer, Phil.	8/ 3/36	
Gramer, Evelyn.	8/21/36	
Grom, John.	7/19/36	John Kondrath
Grossenheider, Raymond F.	8/ 5/36	
Grum, Stanley.	7/13/36	Meyer Adelman
Haney, Gilbert.	7/2/3/36	
Henning, Albert.	9/ 4/36	
Hensley, Fred.	7/13/36	
Hoff, Joseph.	8/21/36	
Holm, A., Jr.	8/ 4/36	C. Swanson
Hook, Chester.	7/23/36	
Huffman, Ralph.	11/13/36	John Germer
Jakolat, Albert.	7/14/36	Meyer Adelman
Janas, Stanley.	7/23/36	
Johnson, Oscar (per J. K.	7/21/36	
Johnson, Eino.	9/ 4/36	
225		
Johnstone, Alfred.	8/21/36	
Joraki, Catherine.	7/23/36	Clarence Dreyer
Kancilja, Tony.	8/ 4/36	
Karpinski, Fred.	7/23/36	
Kaucic, Edward.	7/18/36	
Kondrath, John.	7/13/36	Meyer Adelman
Latz, Frank.	8/21/36	
Leskovec, Jasper.	7/18/36	
Lodesky, Frank (Died in Sept.)	7/14/36	Meyer Adelman
Ludlow, F.	9/ 4/36	
Mesec, Fred.	7/18/36	
Moxey, Frank.	8/10/36	
Musech, Frank.	7/18/36	

## Board Exhibit No. 19.

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Nagode, Anton..... 7/13/36  
 Nickoley, Frank..... 7/13/36  
 Pearce, Olive..... 9/10/36  
 Pester, Russell..... 9/ 4/36  
 Petkus, C..... 8/ 5/36  
 Plewa, John..... 7/23/36  
 Praski, John..... 7/13/36  
 Pratt, Robert..... 7/24/36

Meyer Adelman  
 Meyer Adelman

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Rehmar, Elmer..... 7/21/36  
 Rickveis, Joseph..... 8/ 5/36  
 Rayner, Harry H.....  
 Rode, Andrew..... 7/18/36  
 Ross, R. R..... 9/ 4/36  
 Ruck, E..... 7/21/36  
 Seifert, Marguerite..... 8/21/36  
 Schults, Eric..... 7/28/36  
 Schuman, Edward..... 7/13/36  
 Skarbalis, Peter..... 8/ 8/36  
 Sladek, Milton\*..... 11/20/36  
 Slobe, Victor..... 7/19/36  
 Small, Luther..... 7/13/36  
 Smith, Geo. W..... 7/31/36  
 Sterovich, John..... 7/13  
 Swanson, C. A..... 7/14/36  
 Turpic, Tony..... 7/21/36  
 Van Treeck, Wm..... 8/ 5/36  
 Warner, Chas..... 7/13/36  
 Wells, Paul..... 7/ 4/36  
 White, Allen..... 8/ 5/36

Meyer Adelman

F. Latz

Meyer Adelman

Meyer Adelman  
 Meyer Adelman

Meyer Adelman

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Yaeger, Fred..... 7/14/36  
 Zelenick, Frank..... 8/ 5/36  
 Zelenik, Mike..... 8/ 5/36

Meyer Adelman

John Kondrath

\*(Marked "Exempt")

## BOARD EXHIBIT 19

6/14/37

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List of 18 Cards, no one of which Bears a Date as to when Persons Whose  
 Names Appear Applied for Membership

X Bond, H.....	July	1936	Meyer Adelman
R Bunton, A. J.....	July,	1936	Meyer Adelman
Carlseen, Mabel.....	Aug	21 1936	
R Dreyer, Clarence.....	July,	1936	
X Herman, Alma*.....	November	1936	Wm. Magness
X Herman, Elsie*.....	November	1936	Clarence Dreyer
X Jorski, Lydia*.....	November	1936	Phil Gramer
X Lindberg, Eric (Eric).....	February	1937	Fagan
R Magness, William B.....	July	6 1936	Meyer Adelman
X Worklan, Mary.....	November	1936	Harold Dreyer
X Nostel, David.....	November	1936	Carl Swanson
R Ohlson, Theodore.....	August	1936	
X Oliver, Victor.....	February	1937	Fagan
R Petraitis, Joseph.....	July	1936	Meyer Adeiman
R Pomppaine, Arvo.....	Aug	1936	
R Pratt, Merritt.....	August	1936	
X Salo, Laverne.....	January,	1937	R. E. DuBois
X Swanson, Orlin.....	Feb.	1937	Fagan

\*(marked "Exempt")

X Dates from Union Records—W. R. Walsh

R Date from Testimony in the Record—W. R. Walsh

## BOARD EXHIBIT 20

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6/14/37

List of Cards, all of which are Dated Subsequent to Month of September.  
Most of These Dated Prior to February 17

Name	Date	Organizer
Ambrose, Charlie	11/13/36	Frank Zelenick
Anthony, Frank	12/18/36	Frank Latz
Bissonnette, Joan*	11/16/36	Harold Dryer
Boren, Thom	11/ 8/36	Adelman
Bourdeau, Wallace	12/31/36	
Braden, W. R.	11/13/36	M. Crump
Brandt, Harry*	11/18/36	F. Latz
Bristol, Laurence	11/13/36	Frank Zelenick
Butterfield, Virginia	11/27/36	Harold Dreyer
Cerk, George	11/ 8/36	Adelman
Coon, Milton	2/17/36	F. Latz
Cuelith, John	12/10/36	Fagan
Dietmeyer, Vincent	11/11/36	Carl Swanson
Fisher, LeRoy*	11/17/36	Frank Zelenick
Fuilan, Frank*	11/13/36	F. Latz
Fulkerson, Chas. E.	1/ 9/37	Fagan
Gartley, Fern	1/ 8/37	Fagan
Hanson, Gilbert	1/ 6/37	Frank Zelenick
Hendee, Eugene D.	11/10/36	Carl Swanson
Herman, Henry*	11/13/36	F. Latz
Hertel, Victor	12/18/36	Fagan

## 230 Exhibit 20

Janas, Chester	12/28/36	Fagan
Jackaway, John W.	12/26/36	Fagan
Johnson, Vivienne	11/27/36	Ed. Schuman
Joraki, Clara	12/ 3	Adelman
Kallio, George	2/ 3/37	
Laser, Miss Mary	11/25/36	Ed. Schuman
Latz, Herman*	11/17/36	F. Latz
Latz, Otto	11/ 2/36	Adelman
Lima, Joe*	11/13/36	F. Latz
Luczo, Elizabeth	3/ 3/37	J. A. Kondrath
Luczo, Steve	11/11/36	Angelo Galbavy
Luke, Elmer	12/16/36	Harold Dreyer
Luke, Gus E.	1/ 4/36	F. Latz
Markovec, Paul	2/21/37	O. H. Mills
Merkins, Otto H.	12/ 8/36	Adelman
Mesec, Tillie*	11/13/36	Ed. Schuman
Mogel, Nate	7 15/36	F. Latz
Mondro, George	11/12/36	F. Latz
Nimagern, Robert	11/12/36	F. Zelenick
Novak, Nick	11/13/36	John Germer

## 231 Exhibit 20

Ocana's, Frank	12/31/36	Frank Latz
Pearson, Ray	1/11/37	O. H. Mills
Peters, Elsworth	12/22/36	F. Yager
Peters, Hazel L.	1/22/37	F. E. Fagan
Ponterick, Bartol	1/27/37	Fagan
Ptak, Frank	11/17/36	Roy Brown
Recktenwald, Isabel	11/25/36	Ed. Schuman

Romppaine.....	11/12/36	F. Latz
Sand, Louise.....	12/22/36	Harold Dreyer
Scheuer.....	2/ 6/37	Fagan
Schneider, Henry.....	11/12/36	F. Latz
Simonson, Alf.....	12/10/36	Kondrat
Sladek, Arthur*.....	11/18/36	F. Latz
Stanley, L. O.....	12/17/36	
Smith, C.....	1/30/37	Fagan
Taylor, John.....	3/11/37	Harry Rayner
Verenski, Stanley.....	11/11/36	Adelman
Westerlund, Oscar.....	11/13/36	John Germer
Weatherhead, V. L.....	2/17/36	F. Latz
Micklich, Elsie*.....	11/11/36	Ed. Schuman

\*(marked "Exempt")

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## BOARD EXHIBIT NO. 21.

6/14/37.

April 20, 1937

National Metal Trades Association  
122 South Michigan Avenue  
Chicago, Illinois.

Gentlemen:

I think that the occasion for addressing communications to me at my home, 595 Lincoln Avenue, Glencoe, Illinois has passed and I suggest that you change your records or mailings so that all material from the association will now come addressed to me at North Chicago, either in care of Fansteel Metallurgical Corporation or Vascoloy-Ramet Corporation, as the case may be. This will be more convenient for us and will get the material in the hands of our people much more quickly than is possible under the present mailing arrangement.

Yours very truly  
Fansteel Metallurgical Corporation  
*President*

R J Aitchison  
NL

cc-Messrs. H. S. Flyn  
Chas Blatchford

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*Board Exhibit No. 22.*

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BOARD EXHIBIT NO. 22.

6/14/37.

April 22, 1937

Mr. Chas. H. Strawbridge, President  
National Metal Trades Association  
122 South Michigan Avenue  
Chicago, Illinois.

Dear Mr. Strawbridge:

Following my return to the city after an absence of two weeks, I am pleased to acknowledge your letter of April 7. We are very happy about our acceptance as members in your Association and I just want to write you and tell you we hope we will prove constructive, helpful members in advancing the excellent principle for which your association stands.

I want to take this opportunity also for expressing to you our sincere appreciation of the many helps and assistances accorded us through the Executive Office of your association and through the head of your Chicago Branch.

Yours very truly

Fansteel Metallurgical Corporation  
*President*

R J Aitchison  
NL

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BOARD EXHIBIT NO. 23.

6/11/37.

Application for Membership

National Metal Trade Association

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A check for \$50.00 to cover the Initiation Fee is required with this application, with the understanding that same is to be returned to the applicant if not elected. Kindly make check payable to the Treasurer of the Association.

"Members of this Association shall be persons, firms or corporations, engaged as principals owning or controlling manufacturing plants, operating principally in the metal trades, or in trades employing metal workers as hereinafter classified." (Art. 2, Sec. 1, Constitution adopted January 18, 1909.)

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National Metal Trades Association  
Chicago, Ill.



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## Application for Membership.

We, the undersigned, do hereby covenant and agree to, and with each and every member of the National Metal Trades Association, as follows:

"Fair dealing being a cardinal principle of this Association, we pledge ourselves to be governed by and to obey its Constitution and By-Laws and all proper rules in conformity therewith which do not conflict with the Laws of the County, State or Province in which we do business.

"It is agreed that this application shall not become operative until it shall have been accepted and approved by the Administrative Council, and until the initial assessment shall have been paid."

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If, without the consent of the Administrative Council, a member shall settle a difference or strike, the defense of which has been assumed by the Association, such member shall repay to the Association all the moneys which the Association may have expended on account of having assumed defense of such difference or strike, and shall also be liable to suspension or expulsion. (Section 7, Article 13, Constitution.)

Applicant's Firm Name Fansteel Metallurgical Corporation

By Robert J. Aitchison.

(Official Signature of Responsible Officer)

Date Aug. 17, 1936.

Note—Because of the confidential nature of the Association's correspondence it is desirable that all mail sent from the Commissioner's Office be addressed to some particular individual.

## Statement of Conditions.

1. General character of business Prod. and Fabric. of Rare Metals.
2. Have you ever applied for or held membership in the National Metal Trades Association? No.
3. Are you a member of any other association of employers? No.
4. Date and character of last labor demand made upon your company None.
5. Have you any labor agreements with employees who come under the classification of this Association? No.

6. If so, please forward copies.....
7. Are any of your employees involved in any labor troubles at present? No.
8. If so, give full details.....
9. With what labor organization are your employees affiliated? None known.
10. Is any labor difficulty pending in your establishment? None known.
11. If so, give full details.....
- Do you have a works council or an employee representative plan? No.
- If so, please submit a copy.
12. In your opinion, in case of strike, will other trades in your employ strike in sympathy? No.
13. \*No. of hours plant is operated (Day shift 8 hrs  
each day (Night shift \_\_\_\_  
No. of hours plant is operated (Day shift 40 hrs  
per week (Night shift \_\_\_\_  
Night shift only in certain departments.  
No. of hours plant is operated (Day shift \_\_\_\_  
on Saturday (Night shift \_\_\_\_

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## Employees.

Please Read Note on Last Page Before Filling Out This Application.

Classification	Maximum Number	
	Men	Women
Machine Shop		
All-Round Machinists.....	9	.....
Bench and Vise Hands.....	.....	.....
Assemblers .....	.....	.....
Erectors .....	.....	.....
Scraper Hands.....	.....	.....
Lathe Hands.....	1	.....
Boring Mill Hands.....	.....	.....
Milling Machine Hands.....	.....	.....
Planer Hands.....	.....	.....
Shaper Hands.....	1	.....
Slotter Hands.....	.....	.....

\* Above figures should be based on the normal daily or weekly schedule and for which straight (single) time is paid.

Classification	Maximum Number	
	Men	Women
Key Seater Hands.....		
Drill-Press Hands.....	1	
Turret-Lathe Hands.....		
Screw Machine Hands.....	2	
Gear Cutter Hands.....		
Machine Grinder Hands.....		
Tool Makers.....		
Die Makers.....	1	
Die Sinkers.....		
Apprentice.....	4	
Heading Mach. Oper.....	2	
Forge Shop and Heat Treating Department		
Blacksmiths.....		
Drop Forgers.....		
Steam Hammer Men.....		
Hardeners and Annealers.....	17	
Elec. Furn. Chem. Proc.....	6	
Boiler Shop, Shipyard & Struct. Iron Workers		
All-Round Boilermakers.....		
Layers Out.....		
Punch and Shear Hands.....		
Riveters.....		
Caulkers.....		
Holders on.....		
.....		
Pattern Shop		
Wood Patternmakers.....		
Metal Patternmakers.....		
.....		
.....		
.....		
.....		
.....		
.....	44	
General Manufacturing		
Power Press Hands.....	2	
Misc. Machine Operators.....	17	
Metal Parts Assemblers.....	2	11
Sheet Metal Workers.....		
Coppersmiths.....		

Classification	Maximum Number	
	Men	Women
Silversmiths .....	.....	.....
Spinners .....	.....	.....
Welders .....	.....	.....
Solderers .....	.....	.....
Braziers .....	2	.....
Polishers Diam. Dies .....	2	1
Buffers .....	.....	.....
Platers .....	2	.....
Burnishers .....	.....	.....
Pickle Tub Men.....	.....	.....
Tinners and Galvanizers.....	.....	.....
Inspectors .....	1	18
Testers .....	.....	.....
Machinery Painters.....	.....	.....
Handymen and Helpers.....	.....	.....
Apprentices .....	.....	.....
Misc. Production Labor.....	1	.....
Misc. Production Labor Chem. Proc....	7	.....
<b>Rolling and Wire Mills</b>		
Metal Rollers.....	4	.....
Bull Block Men.....	3	.....
Wire Drawers.....	4	1
Swagers .....	6	.....
Annealers .....	4	.....
<b>Automotive Assemblers</b>		
Motor .....	.....	.....
Chassis .....	.....	.....
Real Axle.....	.....	.....
Riveters .....	.....	.....
Miscellaneous .....	.....	.....
.....	.....	.....
<b>Maintenance</b>		
Carpenters .....	3	.....
Millwrights .....	2	.....
Pipe Fitters.....	2	.....
Electrical Workers.....	1	.....
Elec. Furn. Repr.....	2	.....
Helpers .....	1	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	68	31

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Seconded by

Date....., 193.....

Applicant's Fire Name Fansteel Metallurgical Corp.

Name of Individual Robert J. Aitchison

(See Note on page 2)

Street Address 595 Lincoln Avenue

City Glencoe State Ill.

Note.

In filling out this application it should be remembered that foundry employees, truck drivers, yard men, engineers, firemen, watchmen, crane men, elevator operators, stock keepers, packing-room employees, janitors, clerks, draftsmen, superintendents, general foremen, foremen, and all non-productive labor should Not be included; neither should operatives employed outside the premises of the plant be included in this report. The Administrative Council has ruled that where a plant includes a department employing structural iron workers, factory carpenters, millwrights or pipe fitters, which is virtually a unit separate from the machine shop, and where such men come properly under the jurisdiction of some other trade association of employers, such men shall not be reported; but where such men are employed merely as auxiliary to the manufacture of metal goods, they are subject to assessment. The object of the ruling is to exclude the distinctively building trades.

6/14/37.

Organized 1899

National Metal Trades Association

Homer D. Sayre, Commissioner      Harry S. Flynn, Secretary

March 31, 1937

Mr. Robert J. Aitchison  
Fansteel Metallurgical Corporation  
North Chicago, Illinois

Dear Mr. Aitchison:

I have the honor and pleasure of advising you of the favorable action of the Executive Committee upon your application for membership in the National Metal Trades Association. It is quite important that you should fully advise yourself of the By-Laws governing the conduct of the affairs of the Association, and to that end we enclose a copy of our Constitution and By-Laws.

Your particular attention is called to Article XII and to Sections 1, 2 and 3 of Article XIII, which for convenient reference are separately printed and also enclosed. In interpreting Section 2 of Article XIII, the Council has fixed the "date of official enrollment" to be the date when the new member pays the first assessment as based upon the report of operatives, and the ninety day period to run from that date. In the event of a strike occurring during the ninety day period and continuing beyond that time, the defense of such a strike is entirely within the discretion of the Administrative Council. In fact, the defense of any strike by the Association must always be sanctioned by the Council, and you are, therefore, requested to fully advise yourself by reference to the By-Laws as to procedure in case of threatened trouble or actual strike.

Bill covering your assessment for the unexpired portion of the present quarter (April 1st to May 31st) is enclosed. Ninety days after the receipt of check covering this bill (through the Secretary of the Chicago Branch) you will be entered on our records as a fully qualified member, and a certificate of membership will be sent to you.

In welcoming you to the ranks of our members we feel sure



that your connection with the Association will be of great benefit to you both directly and indirectly and your hearty cooperation with the objects of the Association will add to its strength to as great an extent as your financial support.

Very truly yours,

(Sgd) H. D. Sayre  
*Commissioner.*

HDS:MG

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**Extract From the  
Constitution and By-Laws  
of the  
National Metal Trades Association**

**Article XII.**

**Benefits of Membership**

**Members in Arrears Not Entitled to Benefits**

Section 1. No member in arrears to the Association for thirty days shall participate in the benefits of membership except by special action of the Administrative Council.

**New Member Not Entitled to Benefits for Ninety Days**

Sec. 2. No member shall be entitled to the benefits of membership until ninety days after date of official enrollment; but, if labor trouble is threatened or declared against such member before enrollment, the Administrative Council at its discretion may direct the Commissioner to take measures to prevent or combat a strike. In such event the member shall agree in writing to pay all expenses incurred by the Association in his behalf.

**Article XIII.**

**Strikes and Lockouts**

**How to Proceed in Case of Labor Disputes**

Section 1. In the conduct of labor disputes members must proceed in the manner which the Constitution and By-Laws prescribe, failing in which they shall forfeit all right to the financial or moral support of the Association, except as special relief measures may be authorized by the Administrative Council.

**Defense of Strikes to Be Handled by Administrative Council**

Sec. 2. The defense of a strike or lockout which has been authorized by the Administrative Council shall be conducted only under its direction or that of its authorized representative.

**Methods of Relief and Protection**

Sec. 3. In the case of a strike in the shop of a member, the Association may, upon request of the member, assist in procuring workers to replace the strikers; but the number of workers so procured shall not exceed seven-tenths of the number of striking employes covered by the member's regular assessment for the current quarter. Nor shall such member be entitled to any additional relief because of any penalty which may have been invoked under Section 7, Article VII. Other methods may be adopted by the Administrative Council for the relief of members in times of strikes or lockouts.

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**BOARD EXHIBIT NO. 25.**

6/15/37.

The employees of Fansteel Metallurgical Corporation of North Chicago, the majority of the employees being duly organized and being members of the Amalgamated Association of Iron, Steel and Tin Workers of North America, hereby duly elected and authorized the following members of our own Lodge, Number 66, A.A.I.S.T.W.N.A., Carl Swanson, Frank Latz, and Harold Dryer to present to the management of the above named corporation and to ask the said corporation for a conference, with the above named committee, for the purpose of arranging a meeting or meetings, at which time and place the question of collective bargaining and recognition of the Steel Workers Organizing Committee as the sole bargaining agency shall be taken up and discussed with the above named management.

Respectfully submitted,

Lodge 66, A. A. I. S. T. W. N. A.

John A. Kondrath,

*President.*

(Seal)

Carl Swanson,

*Secretary.*

March 3, 1937.

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BOARD EXHIBIT NO. 25A.

6/21/37.

The employees of Fansteel Metallurgical Corporation of North Chicago, the majority of the employees being duly organized and being members of the Amalgamated Association of Iron Steel and Tin Workers of North America, hereby duly elected and authorized the following members of our own Lodge, Number 66, A.A.I.S.T.W.N.A., Carl Swanson, Frank Latz, and Harold Dryer to present to the management of the above named corporation and to ask the said corporation for a conference, with the above named committee, for the purpose of arranging a meeting or meetings, at which time and place the question of collective bargaining and recognition of the Steel Workers Organizing Committee as the sole bargaining agency shall be taken up and discussed with the above named management.

Respectfully submitted,

Lodge 66, A.A.I.S.T.W.N.A.

(Signed) John A. Kondrath

*President*

(Signed) Carl Swanson

*Secretary*

March 3, 1937.

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BOARD EXHIBIT NO. 26.

6/15/37.

(Letterhead of Fansteel Metallurgical Corporation, North Chicago, Ill.)

March 3, 1937

To: Messrs. Carl Swanson  
Frank Latz  
Harold Dreyer

Dear Sirs:

This afternoon you called in person and presented to us a memorandum requesting that we meet with you as a committee to discuss the question of collective bargaining and the recognition of the Steel Workers Organizing Committee as the sole bargaining agency for the employees of our company.

As you well know, our business is not related, directly or otherwise, to the steel business, or to the iron business, or to the tin business. We, therefore, adhered to our consistent refusal to recognize the Steel Workers Organizing Committee as the bargaining agency for our employees and we so advised you immediately.

In connection with this matter, moreover, we desire to call your attention to the following considerations which are uppermost in our minds:

(1) The bona fide membership of your Steel Workers Union Local has actually never embraced more than a small minority of our employees. Any additional signatures were procured by you only through a systematic campaign of coercion, intimidation, threats and duress, extending even into the very homes of our employees and their family circles;

(2) The vast majority of our employees refused to participate in the sit-down strike and since the enforcement of the court's orders many who involuntarily, or otherwise, remained in the plant, have advised us of their dissatisfaction and disassociation with the Steel Workers Organizing Committee and its local union unit and the lawlessness and violence which characterized their activity;

(3) Our company is in no part connected with the iron, steel or tin industries, nor are our products used by such industries. Ours is a highly specialized laboratory controlled operation which has nothing in common with any mass production industry. We must also make it perfectly clear that under no circumstance can we condone the violent seizure of our plant, the defiance of the judicial decrees and the resistance by force to the law enforcement officers of the community, instigated and directed by the Steel Workers Organizing Committee and its local steel workers unit. Nor can we permit the continuation of the coercive and intimidating tactics used against our employees during the past several months and renewed recently in direct violation of the court's injunction. With this background, and in fairness to our employees who have rejected the lawless practices of the groups mentioned, and who resent the coercive tactics employed, we can not give recognition to the Steel Workers Organizing Committee as the bargaining agency in their behalf.

(4) Immediately following the violent seizure of our plant, we announced the discharge of you and the others who participated in such action with you. We are giving favorable consideration to the applications for reemployment filed by

a number of these men. Except to the extent of any such re-employment, we must consider all of those who were thus discharged as remaining in the category of ex-employees.

244 (5) We have always been willing to meet with our employees, either singly or collectively, to discuss any matter arising out of our employee relationships and we will adhere to this consistent policy.

Yours truly,

R. J. Aitchison

President of

Fansteel Metallurgical Corporation

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BOARD EXHIBIT NO. 26-A.

6/21/37

To: The Management,  
Fansteel Metallurgical Corporation.

Dear Sirs:

The committee of the employees of the Fansteel Metallurgical Corporation, elected to negotiate with the management on behalf of the members of Amalgamated Association Lodge 66, are desirous of bringing about peace and the settlement of the strike now in progress. Therefore we are again asking the management to recognize our union which we have chosen for the purpose of collective bargaining for our members. We are asking that a conference be held between the company and the union for the purpose of adjudicating the dispute.

Respectfully submitted,

Lodge 66, A.A.ISTWNA

(Signed) Frank Latz

(Signed) Carl Swanson,  
Chairman L. Comm.

(Signed) Harold Dreyer

(Signed) Paul P. Glaser,  
Atty for Lodge 66.

6/15/37

Stenographic Report of Conference Held at Fansteel Metallurgical Corporation, North Chicago, Illinois, in Conference Room, March 5, 1937 at 11:45 A. M.

Reported by: Nona Long

Present:

Carl Swanson  
Harold Dreyer  
Frank Latz  
R. J. Aitchison  
F. H. Driggs  
A. J. Anselm

Carl Swanson: We would like to present this matter for your attention.

(Swanson presents paper to R. J. Aitchison. Paper read by R. J. Aitchison, F. H. Driggs and A. J. Anselm.)

R. J. Aitchison: Well, is it alright to answer you in writing like we did the last time?

Carl Swanson: Your question was that you would like to answer in writing again?

R. J. Aitchison: As we did before.

Carl Swanson: Could we have the answer to-day?

R. J. Aitchison: No, we couldn't possibly give it to you to-day. We would want to think about it and give you a carefully prepared answer.

Carl Swanson: You wouldn't wish to discuss this matter now any further?

R. J. Aitchison: You started this with the request that we answer your communications in writing and I would like to continue it.

Harold Dreyer: (To Swanson). Well, it seems as though we should be able to come to some kind of a definite agreement here. Don't you think so?

R. J. Aitchison: You started this procedure of writing and I think we should follow it.

Carl Swanson: Well, if that is the management's wish that they continue it and do not wish to discuss it any further, we will accept that.

Carl Swanson: May I have a copy of that? (Meaning stenographic report).

R. J. Aitchison: Alright, we will send you a copy of it.



247                      **BOARD EXHIBIT NO. 28.**

6/15/37

(Letterhead of Fansteel Metallurgical Corporation,  
North Chicago, Ill.)

March 8, 1937

To: Messrs. Carl Swanson  
          Frank Latz  
          Harold Dreyer

Dear Sirs:

The request contained in the memorandum you submitted March 5, 1937, is little different from the one presented on March 3rd. The only material change is that instead of the Steel Workers Organizing Committee you now propose that one of its local units be accepted as the bargaining agency for our employees. That substitution fails to meet the controlling considerations outlined in our letter to you of March 3rd last.

A careful inquiry by the management has revealed no employees of the company who have authorized you to speak on their behalf. In addition, we think it appropriate to call your attention to the fact that all three of you were discharged for your participation in the violent seizure of our plant and remain in the category of discharged employees. For our further views, we again refer you to our letter of March 3rd.

Very truly yours,

R. J. Aitchison,

*President of Fansteel Metal-  
lurgical Corporation.*

Copy of stenographic notes enclosed.

6/15/37

J. T. Heis  
C. A. Swanson  
W. D. Crump  
Charles T. Warner

March 18, 1937.

Fansteel Metallurgical Corporation,  
North Chicago, Illinois.  
Attention of Mr. R. J. Aitchison,

Dear Sir:

A Properly authorized group of members of Local #66 of the Amalgamated Association of Iron, Steele and Tin Workers of North America, have requested me, in the best interest of all concerned, to present the following requests to you, for your consideration.

No. 1 The recognition of Lodge No. 66 Amalgamated Association of Iron, Steele and Tin Workers of North America, as the bargaining agency, for its members.

No. 2 That no discrimination be shown to any member of the above mentioned Organization, who has participated in any way, in the dispute between the above mentioned Organization, and the Fansteel Corporation.

No. 3 That the Fansteel Corporation select a Committee of its Own choosing, to meet with a Committee selected by Local No. 66 Amalgamated Association of Iron, Steele and Tin Workers of North America, of its members who have been employed by the Fansteel Corporation to discuss and arbitrate mutual differences.

If a favorable answer is received to the above requests by 5 P. M. Monday March 22nd, 1937, or at any time prior to that time, Local No. 66 Amalgamated Association of Iron, Steele and Tin Workers of North America, agree to remove all pickets from the vicinity of the Fansteel Corporation, providing that during the period of negotiation, the Fansteel Corporation agrees not to hire any new employees for any purpose whatever.

My office in this matter is that of mediator, whose desire is to bring together the two parties concerned in this dispute,

so that no undue hardship shall be worked upon either of the parties concerned, or the State and Nation.

Respectfully yours,

John F. Harris,

*Supt.*

State of Illinois }  
County of Lake } ss.

I, Florence Efinger, Notary Public in and for Lake County, Illinois, hereby certify the foregoing to be a true and perfect carbon copy of an original letter signed by John F. Harris, Sup't Lake County Veterans Relief Commission, dated March 18, 1937 and addressed to Fansteel Metallurgical Corporation, North Chicago, Illinois, attention Mr. R. J. Aitchison.

In Witness Whereof, I hereunto set my hand and Notarial Seal at Waukegan, Illinois this 18th day of March 1937.

Florence Efinger,

*Notary Public.*

(Seal)

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BOARD EXHIBIT NO. 30.

6/16/37

National Metal Trades  
Association

Constitution  
By-Laws

Declaration of Principles

Peoples Gas Building  
Chicago, Ill.  
July, 1925

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**Constitution****Article I.****Name and Objects****Name**

Section 1. The name of this Association shall be the National Metal Trades Association.

**Objects**

Sec. 2. The objects of this Association are:

(1) To secure and preserve equitable conditions in the workshops of members for the protection of both employer and employe.

(2) Investigation and adjustment of questions arising between members and their employes which may come within the jurisdiction of the Association.

**Article II.****Qualification and Obligation of Members****Eligibility to membership**

Section 1. Members of this Association shall be persons, firms, or corporations, engaged as principals owning or controlling manufacturing plants, operating principally in the metal trades, or in trades employing metal workers as hereinafter classified.

**252 Obligations of Members**

Sec. 2. Members of this Association shall execute the following agreement:

"We, the undersigned, hereby covenant and agree with each other and with every other member of the National Metal Trades Association, as follows:

"Fair dealing being a cardinal principle of this Association, we pledge ourselves to be governed by and to obey its Constitution and By-Laws and all rules in conformity therewith which do not conflict with the laws of the country, state or province in which we do business."

### Article III.

#### Government

##### Officers

Section 1. The officers of this Association shall be a President, a First Vice President, a Second Vice President, and a Treasurer, who shall be elected by the members annually by ballot at the Annual Convention of the Association. A majority of the votes cast shall be necessary to a choice.

##### Tenure of office

Sec. 2. Officers of this Association shall hold office until their successors shall have been elected and shall have qualified.

##### Administrative Council

Sec. 3. This Association shall be managed by an Administrative Council consisting of the President, First Vice President, Second Vice President, Treasurer, and twelve others, members of the Association, elected as hereinafter provided for.

##### Powers of Administrative Council

Sec. 4. The Administrative Council shall be vested with full power to interpret the Constitution and to put into effect the laws, resolutions, and decisions of the Association, and, by a two-thirds vote of all its members, to make or change by-laws for its own government which shall not conflict with this Constitution; to appoint standing and special committees; to fill vacancies which may occur in the offices, in the committees, and in its own body (for unexpired terms); to exercise general supervision over receipts and expenditures; to levy assessments, as hereinafter provided for; to appoint a salaried Commissioner for a term of not to exceed three years, and to prescribe his duties; to appoint a Secretary and other employees and agents of the Association and to define their duties; to define the duties of the officers of the Association, other than as defined in the Constitution; to fix the compensation of employees and agents of the Association; and to do all other acts and things which it may deem to be for the interest of the Association, not in conflict with its Constitution.

##### 254 Meetings of Administrative Council

Sec. 5. The Administrative Council shall hold two regular meetings in each year, one of which shall be called by the

President at least one day before the Annual Convention, and the other during the month of October. Special meetings of the Administrative Council shall be held at the call of the President, or at the written request of three of its members.

#### **Executive Committee**

Sec. 6. The President shall appoint from the Administrative Council three of its members, who, with the President, shall constitute an Executive Committee, which shall meet monthly at the call of the President, and shall have such powers as may be delegated to it by the Administrative Council.

#### **Compensation to Members of Committees**

Sec. 7. Each member shall be allowed ten dollars (\$10.00) per diem and expenses when serving at regular or special meetings of the Administrative Council or at meetings of its committees.

#### **Letter Ballots**

Sec. 8. The Administrative Council shall have power to call for letter ballots from members of the Association, and such ballots shall be of the same force as the vote of a Convention.

#### **255 Who Eligible to Serve on Administrative Council**

Sec. 9. Any duly accredited representative who shall also be a partner, owner or any corporate or administrative officer of any member in good standing is eligible to serve on the Administrative Council. A firm or corporation, regardless of the number or location of plants which it owns or controls, may not have more than one representative upon the Administrative Council.

#### **When Councilors Shall Forfeit Office**

Sec. 10. A member of the Administrative Council who shall be absent from two consecutive meetings thereof, regular or special, shall forfeit his office, unless excused by a majority vote of the other members of the Administrative Council.

#### **Quorum at Council Meetings**

Sec. 11. A majority of the Administrative Council shall constitute a quorum thereof.



## Article IV.

### Conventions

#### Annual Convention

Section 1. The Annual Convention of the Association shall be held in April of each year, at such time and place as the Administrative Council shall appoint.

#### Special Conventions

Sec. 2. Special Conventions shall be called by the President, at the written request of three-quarters of the Administrative Council, or at the written request of one-quarter of the members of the Association.

#### 250 Conventions of Whom Composed

Sec. 3. Conventions shall be composed of duly accredited representatives of members in good standing, as defined in Section 9, Article III. Members may be represented by proxies held by members.

#### Quorum

Sec. 4. One-fifth of the vote of the Association shall constitute a quorum at Conventions.

#### Work of Conventions

Sec. 5. Conventions shall make such laws, define such policies, adopt such resolutions, and render such decisions, as shall further the interests of the Association; and the acts, resolutions, and decisions of a Convention shall be binding upon all members of the Association.

#### Voting Power of Members

Sec. 6. Each member shall be entitled to one vote for every operative; but no member shall cast more than five hundred votes, including proxies.

#### Nominating Committee

Sec. 7. At Annual Conventions a nominating committee of three members, preferably the last three Ex-Presidents of the Association, shall be appointed by the President.

#### Duty of Nominating Committee

Sec. 8. It shall be the duty of the Nominating Committee, during the year succeeding its appointment, to select candidates for the offices of President, First Vice President, Second Vice President, and Treasurer, and also to select candi-

dates for Councilors, to serve as herein provided. The Nominating Committee shall place the names of candidates recommended by it on a ballot, to be presented at the next Annual Convention. This ballot shall be mailed to each member thirty days prior to the Convention.

Additional tickets, if recommended in each case by not less than fifty members, may be presented to the Convention; but such ticket or tickets must be in the hands of the Secretary not less than fifteen days prior to the Convention. Ballots shall then be printed and promptly transmitted to all the members by the Secretary, in the same manner as the ticket of the Nominating Committee.

#### Councilors' Term of Office

Sec. 9. Each member of the Administrative Council shall be selected for a term of two years, except that, in order to bring the membership of the Administrative Council up to the proper number as provided for in this Constitution, the Annual Convention of 1909 shall elect two Councilors to serve a term of one year and six Councilors to serve terms of two years.

#### President to Preside. When He Votes

Sec. 10. The President of the Association shall preside at Conventions and at meetings of the Administrative Council. He shall have no vote except in case of a tie.

### Article V.

#### Districts

#### Administrative Council to Create Districts

Section 1. For the purpose of providing for concerted local action, members in adjacent territory shall be grouped by the Administrative Council into districts.

#### 258 May Elect District Officers

Sec. 2. Each District may, in March of each year, elect a Chairman, Vice-Chairman, and Secretary, to serve as an Advisory Committee, convenable at the discretion of the Administrative Council.

#### Or Administrative Council May Appoint

Sec. 3. If a District fails to elect its officers, they may be appointed by the Administrative Council.

**Members Operating More Than One Plant**

Sec. 4. Plants owned or controlled by the same firms or corporations in different districts shall be considered separately in the respective districts.

**Article VI.**

**Local Branches**

**Conditions under which Local Branches may be Formed**

Section 1. The Administrative Council may, in its discretion, authorize the formation of local branches; and fix the boundaries of the territory over which such local branches shall have jurisdiction. Provided, however, that each local branch shall comprise not less than ten members, employing an aggregate of not less than 1,500 reportable operatives; and provided also that each local branch shall adopt a Constitution and By-Laws in harmony with the Constitution and By-Laws of the National Association. (As amended 10-1-20.)

**Local Branch to Maintain Employment Bureau**

**Rebates of One-Half Regular Dues to Local Branch**

Sec. 2. A Local Branch shall maintain an efficient organization and an Employment Department, subject to the approval of the Administrative Council. The Secretary of such Branch and its Employment Department in National matters shall be under control of the National Officers and shall co-operate with them; but, in local matters, they shall be under the control of the Officers of the Branch. If these conditions are complied with (and in that event only) the Association shall rebate to the Local Branch one-half of the regular dues paid by each member to the Association. But, if a Local Branch be not so conducted, the President of the Association shall notify the Treasurer of the Association to withhold such rebates from said Local Branch until the Administrative Council shall have passed on the subject.

Final decision as to what are local and what National matters shall rest with the Administrative Council.

**Branch to be Dissolved by Vote of Administrative Council**

Sec. 3. If the membership of a Local Branch shall fall below ten members, or if a Local Branch shall report less than fifteen hundred operatives, or if the ordinary revenues

of a Local Branch shall become insufficient to meet its current expenses, or if a Local Branch shall fail in loyalty to the Association, such Local Branch may be dissolved by the affirmative vote of not less than four-fifths of the members of the Administrative Council. But such Local Branch shall be duly notified of its failure to meet these provisions, and shall be given a reasonable opportunity to show cause why it should not be dissolved.

## Article VII.

## Revenue

## Fiscal Year

Section 1. The fiscal year of this Association shall begin March 1st, and shall be divided into quarters beginning March 1st, June 1st, September 1st, and December 1st, respectively.

## Administrative Council to Determine Amount of Assessment

Sec. 2. The Administrative Council shall determine the assessment per operative to be levied for each quarter, based on the estimated expenses for such quarter, plus such additional sum as may be necessary for the maintenance of the Defense Fund as may be determined by the Administrative Council.

## Quarterly Assessments

Sec. 3. The Administrative Council shall levy regular quarterly assessments, as the needs of the Association may require; but such assessments shall not at any time exceed the sum of twenty cents per operative per month; provided that in no case shall the quarterly assessment amount to less than \$10.00 for any one plant.

## Special Assessments

Sec. 4. The Administrative Council is empowered to levy special assessments at such times and for such purposes as the exigencies of the Association may require.

## How Based

Sec. 5. Assessments shall be based upon the number of operatives employed by each member; provided, however, that no member shall be assessed on more than 6,250 operatives for any quarter.

## 261 Classification of Operatives

Sec. 6. The word "operative" is hereby defined to mean machinist, pipe-fitter, mill-wright, blacksmith, boilermaker, pattern maker, carpenter, structural iron worker, polisher and buffer, brassworker, iron-ship builder, sheet-iron worker, electrical worker, coppersmith, machine operator, and helpers' and apprentices to any of the above. Workmen in any kindred trades may likewise be so designated, at the discretion of the Administrative Council.

## Reporting Operatives

Sec. 7. Each member shall transmit by mail to the Commissioner; or if a member of a Branch, to the Secretary of such Branch, before the tenth days of March, June, September and December, respectively, of each year, a report of the number of operatives employed by him. The basis of such report shall be the average of the maximum number of operatives employed in each month of the preceding quarter. Any member who fails to make such report shall be assessed according to his last quarterly report plus a penalty of ten per cent, and if the member continues to neglect returning his quarterly report, each successive assessment will be ten per cent more than the preceding assessment. Failure to report shall not relieve a member from obligation to do so when notified by the Treasurer to that effect.

## 262 Dues and Assessments When and where payable. Local Branches may levy Assessments for local purposes

Sec. 8. All dues and assessments of the Association shall be paid to the Treasurer at the head office of the Association on or before the tenth day of the second month of each quarter, as determined by the number of operatives reported for the previous quarter. Provided, however, that where a member has failed to make such report, his assessment shall be in accordance with Art. VII, Sec. 7, as amended. Local Branches may levy, for local purposes, such regular and special assessments as their Executive Committees may, respectively, determine to be necessary for the support of the Branches. (As amended 10-1-20.)

Local Executive Committee may Authorize National Treasurer to Collect Local Dues

If a Local Branch deems it necessary to levy a regular or special assessment for the support of the Branch, in addi-

tion to the rebate paid by the National; and if, to obviate the collection of two assessments, the Executive Committee of the Local Branch shall deem it expedient to have this regular or special assessment collected by the National Treasurer, a Resolution of the Executive Committee of such Branch to that effect shall be transmitted to the National Treasurer, who shall collect and remit such additional amount, together with one-half of the National dues to which such Branch may be entitled.

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## Article VIII

### Funds

#### How Funds Shall be Divided

Section 1. The funds of the Association shall be divided into a General Fund to be used for ordinary expenses, and a Defense Fund to be used for defense purposes.

## Article IX

### Application for Membership

#### When Applicant is not in Local Branch Territory

Section 1. When an applicant's plant is not within the territory of a Local Branch, application for membership shall be seconded by two members and shall then be forwarded to the Commissioner, who shall submit the application for recommendation, or otherwise, by letter ballot to all the members of the District in which the applicant's plant is located.

#### Members not Voting to be Recorded as Approving Application

Sec. 2. The non-receipt, within fifteen days, of a member's vote on an application for membership shall be treated as an affirmative vote.

#### When Applicant is in Local Branch Territory

Sec. 3. When an applicant's plant is within the territory of a Local Branch, the Secretary of the Branch shall submit the application to the members of the Branch, either by mail or at a Branch meeting; and, when approved by the Executive Committee of the Branch, the original application shall be transmitted to the Commissioner with a report to that effect.



## Article X

### Election of New Members

#### Members, How Elected

Section 1. The Commissioner shall promptly transmit by letter, to the members of the Administrative Council all applications for membership. Elections shall be by majority vote of the members of the Administrative Council.

## Article XI.

### Resignations, Suspensions and Expulsions

#### Resignations, How Tendered

Section 1. Resignations of members shall be tendered through the Commissioner to the Administrative Council.

#### When Members may not Resign

Sec. 2. No member may resign from the Association during a strike nor pending the settlement of a difficulty existing within the jurisdiction of the resigning member's District or Branch without the approval of the Administrative Council.

#### Resignations When Member is in Arrears. Four Weeks notice

Sec. 3. No resignation shall be accepted so long as the resigning member is in arrears to the Association; and, in any case, four weeks notice in writing shall be given to the President or to the Commissioner.

#### How Members may be Suspended, Expelled, or Reinstated

Sec. 4. A member may be suspended or expelled for cause by a three-fourths vote of the Administrative Council. A suspended member may be reinstated only by a three-fourths vote of the Administrative Council.

#### 265 Suspended Members Precluded from Benefits

Sec. 5. A suspended member shall be precluded from benefits of the Association and shall not be reinstated until all accrued assessments have been paid.

#### Expulsions—Notice to be Given of Intention to Expel. May Appear before Administrative Council

Sec. 6. No member shall be expelled without thirty days



written notice from the Commissioner of the proposed expulsion, and such member shall have the right to appear before the Administrative Council, either in person or by attorney, to present a defense.

#### Members to be Notified of Expulsion

Sec. 7. Notice of the expulsion of a member shall be mailed promptly to each member of the Association.

### Article XII.

#### Benefits of Membership

##### Members in Arrears not Entitled to Benefits

Section 1. No member in arrears to the Association for thirty days shall participate in the benefits of membership except by special action of the Administrative Council.

##### New Member not Entitled to Benefits for Ninety Days

Sec. 2. No member shall be entitled to the benefits of membership until ninety days after date of official enrollment; but, if labor trouble is threatened or declared against such member before enrollment, the Administrative Council at its discretion may direct the Commissioner to take measures to prevent or combat a strike. In such event the member shall agree in writing to pay all expenses incurred by the Association in his behalf.

### Article XIII.

#### Strikes and Lockouts

##### How to Proceed in Case of Labor Disputes

Section 1. In the conduct of labor disputes members must proceed in the manner which the Constitution and By-Laws prescribe, failing in which they shall forfeit all right to the financial or moral support of the Association, except as special relief measures may be authorized by the Administrative Council.

##### Defense of Strikes to be Handled by Administrative Council

Sec. 2. The defense of a strike or lockout which has been authorized by the Administrative Council shall be conducted only under its direction or that of its authorized representative.

### Methods of Relief and Protection

Sec. 3. In the case of a strike in the shop of a member, the Association may, upon request of the member, assist in procuring workers to replace the strikers; but the number of workers so procured shall not exceed seven-tenths of the number of striking employes covered by the member's regular assessment for the current quarter. Nor shall such member be entitled to any additional relief because of any penalty which may have been invoked under Section 7, Article VII. Other methods may be adopted by the Administrative Council for the relief of members in times of strikes or lockouts.

### Disagreement as to Measure or Method of Relief

Sec. 4. Should the Commissioner and a member disagree as to the measure or method of relief to be afforded during a strike or lockout, such member may appeal to the Administrative Council and its decision shall be final.

### No Member shall Willfully Provoke a Strike

Sec. 5. No member of this Association shall willfully provoke a strike.

### No Member shall Adjust a Strike or Difficulty in Violation of this Constitution

Sec. 6. No member shall adjust with his employes any strike or difficulty the settlement of which involves a violation of this Constitution or of the principles of this Association as set out in its Declaration of Principles. Questions arising as to the interpretation thereof shall be referred to the Administrative Council through the Commissioner.

### Penalty for Settling without Approval of Administrative Council

Sec. 7. If, without the consent of the Administrative Council, a member shall settle a difference or strike, the defense of which has been assumed by the Association, such member shall repay to the Association all the moneys which the Association may have expended on account of having assumed defense of such difference or strike, and shall also be liable to suspension or expulsion.

### Conditions under which Local Lockouts may be Approved

Sec. 8. This Association shall not countenance a local lockout proposed by a District or Local Branch unless members

employing nine-tenths of the operatives under the jurisdiction of such District or Local Branch shall have voted in favor of the same, and unless the Administrative Council shall have approved such lockout by a two-thirds vote, by ballot, at a Council meeting, or by a letter ballot.

**268 General Lockouts not to be Declared Except by Convention of Four-fifths Entire Membership**

Sec. 9. No general lockout shall be declared by this Association except by action had at an Annual or Special Convention at which four-fifths of the votes of the Association shall be represented. An affirmative vote of four-fifths of the votes cast at such Convention shall be necessary to declare a general lockout.

**Two Weeks Written Notice of Convention**

Sec. 10. When the question of a general lockout is to be voted on at a Convention, written notice to that effect must be mailed to each member at least two weeks prior to the Convention.

**Article XIV.**

**Constitutional Amendments**

**Constitution, How Amended**

Section 1. This Constitution may be amended by a two-thirds vote of the Association by letter ballot provided that the proposed amendment shall have been approved by a two-thirds vote of the Administrative Council or by the written request of at least twenty-five members of the Association. Adopted January 18, 1909.

**By-Laws**

**Article 1.**

**Duties of Officers**

**Duties of the President**

Section 1. The President shall preside at Conventions of this Association and at meetings of the Administrative Council. He shall enforce the Constitution and By-Laws. He shall countersign checks and drafts drawn by the Treasurer

on the funds of the Association. He shall also perform such other duties as usually pertain to such office.

**In Case of Tie**

Sec. 2. In case of a tie vote in a Convention or in an Administrative Council Meeting, the President shall cast the deciding vote.

**Duties of First and Second Vice Presidents**

Sec. 3. The First Vice President shall perform the duties of the President during his absence or disability, or in case of a vacancy in the office of President. In the absence or disability of both the President and the First Vice President, the Second Vice President shall perform such duties.

**Duties of the Treasurer**

Sec. 4. The Treasurer shall have charge of and disburse the money of the Association, under the direction of the Administrative Council, and shall perform such other duties as ordinarily pertain to such office. He shall have custody of all vouchers, supervise the accounts of the Association, and render reports at Annual Meetings of the Association, or whenever called upon so to do by the Administrative Council. In his absence or disability, the Administrative Council may designate a Treasurer pro tempore.

**The Treasurer to Give Bond**

Sec. 5. The Treasurer shall give a bond, the amount of which is to be fixed by the Administrative Council, such bond to be procured from an approved surety company and to be paid for by the Association.

**Treasurer to Surrender Money and Accounts at Expiration of Term of Office**

Sec. 6. At the expiration of his term in office the Treasurer shall surrender all money, books, records, and other property of the Association, which may be under his control, to his successor in office, when qualified, or to such other person as may be designated by the Administrative Council to receive them.

**Audit**

Sec. 7. The Treasurer shall cause a certified public accountant, nominated by the Administrative Council, to make semi-annual inspection and report as to the condition of his

and the Commissioner's accounts, the expense to be paid by the Association.

#### Commissioner

Sec. 8. The Commissioner shall have such authority and power as the Administrative Council may from time to time vest in him, and he shall perform such duties as the Administrative Council may require. He shall have such funds placed at his disposal by the Treasurer as may be determined 271 by the Administrative Council. He shall make a monthly financial statement, which, when approved by the President, shall become a warrant on the Treasurer for the replenishment of the Commissioner's Fund. He shall give such bond as the Administrative Council may deem proper, said bond to be procured from an approved surety company, the expense of which shall be paid by the Association.

### Article II.

#### Fees and Assessments

##### Initiation Fee

Section 1. Each application for membership must be accompanied by an initiation fee of Fifty Dollars, which amount shall be refunded in case of non-election.

##### Payment of Pro-Rata Quarterly Assessment upon Notice of Election

Sec. 2. Upon notice of election, each applicant shall immediately pay to the Commissioner a pro-rata proportion of the current quarter's regular assessment for the unexpired term, dating concurrently with the notice of his election.

##### Official Enrollment

No elected applicant can be enrolled as a member of the Association until the above requirement shall have been complied with.

### Article III.

#### How a Member Shall Proceed in Case of Strike

##### Disagreements, Demands, etc.

Section 1. In case of a disagreement with employes or in

case a demand is made by them which is likely to lead to collective action on their part, immediate written notice must be given by the affected member to the Commissioner, or, if such member belongs to a Local Branch, he must notify the Secretary of such Branch, who shall immediately notify the Commissioner in writing. In either case, the member affected shall keep the Commissioner or the Branch Officers advised of any changes in the situation, and, in Local Branch territory, the Local Secretary must immediately transmit full information to the Commissioner.

#### Authorizations Entailing Expense to be in Writing

Sec. 2. No expenditure incurred by a member or by a Local Branch shall become a charge upon the Association unless previously authorized in writing by the Commissioner. Expenditures not so authorized in advance shall not be approved by the Commissioner, but shall be referred to the Administrative Council.

#### Relief Expenses Charged to Defense Fund

Sec. 3. Authorized relief expenses shall be paid out of and charged to the Defense Fund.

### Article IV.

#### Meetings of Branch Secretaries

Administrative Council may call Meetings of Secretaries

Section 1. The Administrative Council may call such meetings of the Secretaries of the Branches as may be deemed expedient, the expense to be borne by the Association.

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### Article V.

#### Conventions

##### Notice of Conventions

Section 1. At least two weeks before the Annual Convention the Commissioner shall mail to all members a written notice stating the time and place of holding such Convention.

##### Order of Business

Sec. 2. The order of business of Conventions shall be:

- (1) Roll Call.



- (2) Reading of minutes.
- (3) Appointment of Convention committees.
- (4) Reports of officers.
- (5) Reports of standing committees.
- (6) Unfinished business.
- (7) New business.
- (8) Reports of Convention committees.
- (9) Report of Nominating Committee and election of officers.

#### Convention Committees

Sec. 3. The following Convention committees shall be appointed by the President:

Committee on Credentials,  
Committee on Resolutions,  
Committee on Constitution,  
Auditing Committee,  
Convention Committee,

whose duties shall be those generally pertaining to such committees and to report on matters referred to them. These committees shall consist of three members each, except 274 the Committee on Resolutions, which shall consist of five members.

#### Resolutions to be Submitted in Writing

Sec. 4. At Conventions, Resolutions shall be presented in writing and referred, after reading, without discussion, to the Committee on Resolutions, which shall report back to the Convention, with its recommendations. The Committee on Resolutions may report at any time during sessions of the Convention.

### Article VI.

#### Parliamentary Authority

##### Parliamentary Authority

Section 1. Roberts' Rules of Order shall be the parliamentary authority of this Association.



**Article VII.**

**Amendments.**

**By-Laws How Amended**

Section 1. These By-Laws may be amended in Convention by a two-thirds vote or by letter ballot, two-thirds of the entire membership voting in favor of the amendment.

Adopted January 18, 1909.

275 **Declaration of Principles**

We, the Members of the National Metal Trades Association, declare the following to be our principles, which shall govern us in our relation with our employees:

**Concerning Employees**

1. Since we, as employers, are responsible for the work turned out by our workmen we must have full discretion to designate the men we consider competent to perform the work. While disavowing any intention to interfere with the proper functions of labor organizations; we will not admit of any interference with the management of our business.

**Strikes and Lockouts**

2. This Association disapproves of strikes and lockouts in the settlement of industrial disputes. This Association will not countenance a lockout, unless all reasonable means of adjustment have failed; neither will the members of this Association deal with striking employees as a body.

276 **Relations of Employees**

3. Every workman who elects to work in a shop will be required to work peacefully and harmoniously with all his fellow employees, and to work loyally for the interests of his employer.

**Apprentices, Etc.**

4. The number of apprentices, helpers and handymen to be employed will be determined solely by the employer.

**Methods and Wages**

5. The responsibility for management, methods and the production of our shops rests upon us, and no restriction

upon these matters will be allowed. We will require proper production for proper compensation.

Employees will be paid by the hourly rate, by premium system, piece work, contract or other system, as the employers may elect.

#### **Freedom of Employment**

6. It is the privilege of the employe to leave our employ whenever he sees fit and it is the privilege of the employer to discharge any workman when he sees fit.

#### **Concerning Disagreements.**

7. The above principles being absolutely essential to the successful conduct of our business, we cannot permit the operation of our business thereunder to be interfered 277 with. In case of disagreement concerning matters not covered by the foregoing declaration and not affecting the economic integrity of the industry, we advise our members to meet such of their employes who may be affected by such disagreement and endeavor to adjust the difficulty on a fair and equitable basis.

#### **Equitable Wages**

8. In the conduct of our business and in the payment of wages, by whatever system, this Association will not countenance any conditions or any rates of compensation which are not reasonable and just or which will not allow a workman a proper wager in proportion to his efficiency and productiveness.

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## Branch Offices

## National Metal Trades Association

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Boston, Mass.	186 Purchase St.
Canton, Ohio	301 New Vicary Bldg.
Chicago, Ill.	224 N. Clinton St.
Cincinnati, Ohio	705 Elm St.
Cleveland, Ohio	2014 Union Trust Bldg.
Columbus, Ohio	Keith Theatre Bldg.
Detroit, Mich.	1319 Book Bldg.
Erie, Pa.	808 Commerce Bldg.
Grand Rapids, Mich.	420 Kelsey Bldg.
Hartford, Conn.	616 Capitol Ave.
Indianapolis, Ind.	1406-7 Merchants Bank Bldg.
Jackson, Mich.	144 W. Cortland St.
Jamestown, N. Y.	110 E. Fourth St.
Milwaukee, Wis.	439 E. Water St.
Moline, Ill.	1532½ Third St.
Muskegon, Mich.	Durham Block.
New Haven, Conn.	207 Orange St., Rm 204.
New York, N. Y.	111 Broadway, Room 1300.
Philadelphia, Pa.	1518 Sansom St.
Pittsburgh, Pa.	1632 Oliver Bldg.
Providence, R. I.	420 Butler Exchange.
Saginaw, Mich.	217 Federal Ave.
Springfield, Mass.	11-12 Court House Pl.
St. Louis, Mo.	1750 Railway Exchange Bldg.
Syracuse, N. Y.	137 W. Onondaga St.
Toledo, Ohio	501 Nasby Bldg.
Utica, N. Y.	226 Union Station Bldg.
Waynesboro, Pa.	Waynesboro Trust Bldg.
Wilkes-Barre, Pa.	232 Miners Bank Bldg.
Worcester, Mass.	44 Front St.

1696

*Board Exhibit No. 31.*

279

BOARD EXHIBIT NO. 31.

6/18/37

Certificate Number 16234

STATE OF ILLINOIS

Office of

The Secretary of State

(Cut)

To all to to whom these presents Shall Come, Greeting:

I, Edward J. Hughes, Secretary of State of the State of Illinois, do hereby certify that the following and hereto attached is a true photostatic copy of the Certificate of Incorporation of Rare Metal Workers of America Local No. 1, the original of which is now on file and a matter of record in this office.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois.

Done at the City of Springfield this 26th day of May, A. D. 1937.

Edward J. Hughes,  
*Secretary of State.*

(Seal)

280

Certificate Number 5377

STATE OF ILLINOIS

Office of

The Secretary of State

(Cut)

To all to to whom these presents Shall Come, Greeting:

Whereas, a Certificate, duly signed and acknowledged has been filed in the Office of the Secretary of State, on the 19th day of April A. D. 1937, for the organization of the Rare Metal Workers of America Local No. 1 under and in accordance with the provisions of "An Act Concerning Corporations" approved April 18, 1872, and in force July 1, 1872, and all acts amendatory thereof a copy of which certificate is hereto attached;

Now Therefore, I, Edward J. Hughes, Secretary of State of the State of Illinois, by virtue of the powers and duties vested in me by law, do hereby certify that the said Rare Metal Workers of America Local No. 1 is a legally organized Corporation under the laws of this State.

In Testimony Whereof, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois.

Done at the City of Springfield this 19th day of April A. D. 1937 and of the Independence of the United States the one hundred and 61st.

Edward J. Hughes,  
Secretary of State.

(Seal)

281 This Statement Must Be Filed in Duplicate

Fee \$10

(Stamp) Paid Apr 19 1937 I. F. \$10 F. T. \$ F. F. \$  
W.O.S.

State of Illinois, }  
Lake County. } ss.

To Edward J. Hughes, Secretary of State:

We, the undersigned T. Sylvin, H. Weddell and A. R. Johnson, citizens of the United States, propose to form a corporation under an Act of the General Assembly of the State of Illinois, entitled, "An Act concerning Corporations," approved April 18, 1872, and all Acts amendatory thereof; and for the purpose of such organization we hereby state as follows, to-wit:

1. The name of such corporation is Rare Metal Workers of America Local No. 1.

2. The object for which it is formed is To Bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or mutual aid or other mutual aid or protection.

(Stamp) Received Page 0365 Line 7 Apr 19 '37.

3. The management of the aforesaid corporation shall be vested in a board of three Directors.

4. The following persons are hereby selected as the Direc-

1698

*Board Exhibit No. 31.*

tors to control and manage said corporation for the first year of its corporate existence, viz.:

Name	Address	City	State
	Number Street		
T. Sylvin	1521 Lincoln St.,	North Chicago,	Ill.
H. Weddell	1347 Grace St.,	Chicago,	Ill.
A. R. Johnson	26 Wisconsin Ave.,	Waukegan,	Illinois.

5. The location is in the city of Waukegan in the county of Lake in the State of Illinois, and the post office address of its business office is at No. 20 Wisconsin Street in the said City of Waukegan, Ill.

Signed, T. Sylvin  
H. Weddell  
A. R. Johnson

282 State of Illinois, } ss.  
Lake County.

Adele B. Miller, a Notary Public in and for the County and State aforesaid, do hereby certify that on this 17th day of April, A. D. 1937, personally appeared before me T. Sylvin, H. Weddell and A. R. Johnson, to me personally known to be the same persons who executed the foregoing certificate, and severally acknowledged that they had executed the same for the purposes therein set forth.

In Witness Whereof, I have hereunto set my hand and seal the day and year above written.

(Seal)

Adele B. Miller,  
Notary Public.

2509

196339

The \_\_\_\_\_

Location \_\_\_\_\_

**Certificate**

Fee for Incorporation of  
Organization Not for  
Peraniary Profit

Section 1. Be it enacted by the People of the State of Illinois, represented in the General Assembly: That all societies,

corporations and associations not for pecuniary profit, hereafter organized under the laws of the State of Illinois, shall pay to the Secretary of State before there shall issue a certificate of incorporation, a fee of \$10.00. (Section 25, Chapter 53, Smith-Hurd, Illinois Revised statutes.)

Filed Apr 10 1937 Edward J. Hughes Sec'y of State.

283

Certified Copy  
of

State of Illinois,  
Office of the  
Secretary of State.

284

BOARD EXHIBIT NO. 32.

6/18/37

Rare Metal Workers of America  
Local No. 1

Incorporated Under Illinois Laws

Waukegan, Ill., April 23 1937

This is to certify that

La Verne Huff  
whose signature appears on the margin is a member in good standing of the R. M. W. of A. for month of May.

Dues paid \$.25

Signed: T. H. Sylvin,  
President

Signed: R. Johnson,  
Secretary-Treasurer.

(Typographical Union Label) 1

(In right-hand margin) La Verne Huff.

Signature.





Notice Placed on Board for  
To meet in Bldg. 117 to vote,  
3 P. M.

Do you as an employee of this Company  
favor an independent labor organization?

	Yes
	No

Sony Small 24 Tickets  
Returned and Paid for 6,  
\$240

Received of C. H. Hryer  
\$193.02.

Meeting 3 P. M. at  
Bldg. 100, 2



286

**BOARD EXHIBIT NO. 34.**

6/23/37

Trade at Home  
Spend at Home

Final Edition

**The Waukegan News-Sun**

---

Waukegan, Illinois, Wednesday, March 10, 1937.

Volume XL (40th year)—No. 58.

Price Three Cents

**Twenty Pages**

---

**Supervisors Back Sheriff**

---

**A. F. of L. Chief to Help Steel Company Unions in Fight  
Against C. I. O.**

---

**Board Votes Fund to Pay Deputy Hire**

---

**Law and Order as Maintained by Sheriff Doolittle Wins Sup-  
port of Supervisors at March Meeting.**

---

Law and order as maintained by Sheriff Lawrence A. Doolittle was given the support of the board of supervisors yesterday at the last final regular session of the present board.

On two occasions during the afternoon session of the board, in the midst of a gallery of sitdown strikers and others of the Fansteel Metallurgical corporation plant in North Chicago, Sheriff Doolittle was given the backing of the supervisors for executing his orders with due regard for life and property rights as the peace officer of the county at the Fansteel and Zion Industries strikes.

Deciding that an emergency exists now as a result of the Fansteel strike, the board voted a special appropriation of \$13,000 for deputy hire and supplies for the sheriff's office. The board also approved a bill for \$1,785 for 357 days of service by 215 special deputies at the Fansteel plant during the tense periods before and after the gas attacks on Feb. 19 and 26 to evict the sitdowners.

## Did His Duty

"We would not think much of the sheriff if he did not carry out the order of the highest court in Lake county," Supervisor H. D. Kelsey of Barrington declared. "If he had come back with the court order and said I cannot serve it, we would have immediately charged him with malfeasance of office.

"I believe the sheriff should be complimented for executing the court order with regard for human life and for protecting property rights."

Other supervisors rallied to the support of the sheriff when one of the assistant supervisors, A. J. Sutkus, wanted the sheriff to attach a full list of the special deputies hired at the Fansteel and Zion strikes to the bills before the board for approval.

"The sheriff should not be made to bring the names of the special deputies here," Assistant Supervisor Arthur Swanson of Highland Park objected. "When it was learned that one man from the north shore had been serving as a special deputy, he had been threatened. The names are available to any supervisor who wishes to see them."

Other members of the board approved Swanson's explanation.

## Washo Rebuked

One brief skirmish occurred toward the end of the board session when Supervisor Harry W. Washo of Ela stated, "I saw by the papers that the Fansteel company was a \$1,500,000 corporation, so I did a little investigating and in County Clerk Russ Alford's office I found the assessed valuation was \$80,595 . . . ."

Supervisor Dan Hentges of Lake Forest interrupted Washo with a fierce verbal attack.

"You mind your own business and quit sticking your nose into my township," Hentges shouted at Washo. (The Fansteel Metallurgical corporation property in North Chicago is in Shields township.) "We have an assessor in our township who watches these things, and if there is more taxable property it will be shown. Why a few years ago I could have bought the whole Fansteel company for \$50,000. Now it is paying more taxes than you (Washo) and your whole township."

Supervisor Kelsey halted the skirmish with a statement that

the question before the board of supervisors did not involve the merits of the strike at Fansteel.

Passes 25 to 4

The resolution, introduced by the finance committee of the board composed of Supervisors Leo Fenlon, W. W. Steele and Emmett McShane, stating that an emergency exists as a result of the Fansteel strike and asking for a special appropriation of \$3,000 for deputy hire and \$5,000 for supplies and equipment for the sheriff, was passed by a vote of 25 to 4 on a roll call. The supplies include gas and equipment to shoot the gas and other accessories.

Following the passage of the special appropriation, a resolution, signed by the resolutions committee of the board composed of Supervisors Harold E. Pillifant, George D. Meyer and Cliff Evans, asking for the payment of \$1,785 to special deputies hired in the Fansteel strike was approved by a vote of 28 to 1.

A claim of \$280 for deputy hire in the Zion strike was voted paid by the board in the consideration of miscellaneous claims.

Fansteel Pays Employees

While the board of supervisors was in session the management of the Fansteel Metallurgical company was sending out checks to approximately 238 employes as salary for the period from 2:30 p. m., Feb. 17 to Feb. 27. Accompanying these checks were letters signed by R. J. Aitchison, president of the company, which said in part:

"All employes who have returned to work will receive from the company pay checks for the period from 2:30 p. m., Feb. 17 to Feb. 27, which covers the time that our plant was out of our control and illegally held. The benefit of like payment will be extended also to all who are reinstated as employes on or before March 12."

1706

*Board Exhibit No. 35.*

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BOARD EXHIBIT NO. 35.

6/21/37

(Letterhead of Fansteel Metallurgical Corporation,  
North Chicago, Ill.)

Feb. 25, 1937

Mr. Arthur Holm  
142 McKinley Ave.  
Waukegan, Illinois

Dear Sir:

Effective immediately your employment with the Company is terminated. You will receive your compensation for the entire last period of February and your check is now available for you.

You are directed to deliver to me immediately your employees identification card, master key and any other property of the company in your possession, and your check will be delivered to you at that time.

Very truly yours,

Fansteel Metallurgical Corp.

A. J. Anselm,

A. J. Anselm,

*Superintendent.*

AJA:WS



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## BOARD EXHIBIT NO. 36.

6/22/37

## Range of Pay of Employees Fansteel Metallurgical Corporation

The minimum rates are as follows:

For men —50¢ per hr.

For women—40¢ per hr.

Department	Range of Pay Per Hr.
Wire Department	.50 to .80
Wire Inspection	.40 to 1.00
Railway & Industrial Signal	.45 to 1.00
Swaging	.55 to 1.00
Rolling and shearing	.55 to 1.00
Tantalum Fabrication	.65 to .80
Tool Room	.50 to 1.00
Machine Shop	.55 to 1.00
Chemical Department	.50 to .80
Sintering and Annealing	.50 to .80
Shipping Room	.50 to .78
Stock Room	.50 to .65
Cutting	.45
Grinding	.45
Contact Setup	.42 to .75
Contact Inspection	.40 to .55
General Contact	.50 to 1.00
Watchmen, Yard, Firemen and Janitors	.50 to .70
Maintenance	.80 to 1.00

299

## BOARD EXHIBIT NO. 38.

6/23/37

## Praise Sheriff for Strike Act

Fansteel Company Thanks All Officials; Report Material Loss of \$25,000.

President Robert J. Aitchison of the Fansteel Metallurgical corporation today issued the following statement concerning the ouster of the discharged employees from the company property:

"In conformity with the orders of the circuit court of Lake

county, Sheriff Lawrence A. Doolittle with 40 deputies today removed 60 discharged employes from Plants 3 and 5, which were restored to the company. We are grateful that the sheriff's action was so ably planned and carefully carried out that no serious injury to anyone resulted.

"From a preliminary inspection and survey of Plants 3 and 5, we have arrived at the tentative conclusion that:

"(1) There has been no major injury to the machinery itself.

"(2) Materials, parts and supplies of an approximate value of \$25,000.00 have been destroyed or otherwise rendered useless.

"(3) Physical injury to the buildings themselves, including broken window panes, has resulted in damage of approximately \$7,500.00.

### Speed Reopening

"It is the definite intention of the company to reopen the plant and resume operations as soon as possible after the necessary rehabilitation can be effected. Building repairs and steps toward replacement of destroyed parts, materials and supplies will be undertaken promptly and will be speedily consummated. We are notifying our employes to this effect and will advise them shortly of the date operations will be resumed.

"All of the men who participated in the sit-down strike were discharged by the company. It has been the company's consistent belief that more than half of the 80 men who participated in the seizure of the plants were compelled to do so through coercion and intimidation. Applications for re-employment from such men will receive favorable consideration.

"We cannot condone the defiance of the courts or the resistance with violence to the enforcement of the law. For the men who participated in such unlawful activities, there can be no place in our plant.

"The management will continue its policy of dealing directly with its own employes, either individually or collectively, and will not permit outside professional agitators to inject themselves between us and our employes."

## Board Exhibit No. 39

1602. *Human*  
*5 p* *are*

~~NATIONAL LABOR RELATIONS BOARD~~

CASE NO. 2

~~FILE~~  
~~REPLY~~  
~~REPLY~~

EXHIBIT NO. 39

IN THE MATTER OF *Foster*

DATE *6/24/37*

WITNESS *Hola*

SMITH & HULSE, OFFICIAL REPORTERS

BY *Walter*

PERMIT TO WORK OVERTIME

Dept. \_\_\_\_\_

Date \_\_\_\_\_

Men \_\_\_\_\_

Clock No. \_\_\_\_\_

Nature of Work \_\_\_\_\_

Approved \_\_\_\_\_

Foreman

Approved \_\_\_\_\_

Supt.



## 291 BOARD EXHIBIT NO. 40.

6/25/37

New Productive Employees Upon Reopening After February 26, 1937. (Many of those named below had formerly been employed by the company but were not working on February 17, 1937)

Contact Department—Welding .....	1
Maintenance Department .....	2
Swaging Department .....	6
Rolling .....	1
Shipping Department .....	2
Punch Press .....	1
Copper Plating and Welding .....	2
Wire Department .....	3
Machine Shop and Tool Room .....	3
General Laborers .....	2
Chemical Department .....	10
Sintering and Pressing .....	2
Total .....	35

Board Exhibit No. 41-B

Jan 8 - 21 1/2 pgs 1217 (121) 434  
53 slabs 1290 6.6

Jan 11 -  
12 pgs 1217 - (11) (12)  
5 hrs Daywork (14) - 405  
62 slabs 1325 4

Jan 12 -  
5 1/2 pgs 1216 (6) 433  
1 1/2 pgs 1217  
1 1/2 hrs Daywork  
11 slabs 1248

Jan 13 -  
8 hrs Daywork 320  
69 slabs 1248 -

Jan 14 -  
8 hrs Daywork - 320  
25 pgs 1216 - 40460

Jan 15 - 1 1/2 pgs 1216 - 320  
5 pgs 1216 - 40460  
8 pgs 1216 - 1315 -

Board Exhibit No. 41-A

Dec 24 - 11 pgs 940509 - 519  
75 pgs 940033  
Dec 30

75 pgs 940507 (6.3) 472

(1137)

Jan 4 - 62 pgs 940509 (6.3) 390

Jan 5 - 47 pgs 940509 370  
1 pgs 1213  
1 pgs 1286  
1 pgs 940566  
1 pgs 940527

Jan 6 -  
27 pgs 1290 7. (7.6) 430  
26 pgs 1095 - (8)

Jan 7 -  
133 slabs 1290 - 6.6 - 438

Board Exhibit No. 41-D

Jan 26 - 18 pgs 1095 (88) - 437  
51 slabs 1248 (48)

Jan 27 -

70 pgs 940240 - 420

Jan 28

33 pgs 940527 - 435

Jan 29

18 pgs 940240 - 424

24 " 940527 (13.2)

Jan 30

70 pgs 940240 - 420

Feb 1

2 pgs 940240 - 420

68 " 940053

Feb 2

38 pgs 940053 - 420

32 " 940240

Feb 3

87 pgs 940240 - 522

Board Exhibit No. 41-C

Jan 18 - 27 pgs 940509 (63) - 350  
4 1/2 lbs Daywork

Jan 19

56 pgs 940509 - 387

9 lbs Day 1 pgs 1323 + Rehears

Jan 20

41 pgs 940509 (83) - 409

15 1/2 pgs 1217 (12.1)

Jan 21

36 pgs 940509 - 378

2 pgs 940053 (11)

Whole

7 pgs 940166

Jan 22

4 pgs 940123 -

7 pgs 1095

50 slabs 1248 (4.9)

Jan 25

20 pgs 1095 (8) - 435

53 slabs 1248 (4.9)



Board Exhibit No 41-F

Feb 13 - 47 pgs 2195 (66) - 320

Feb 15 - 11 pgs 2195 (16)

43 pgs 740033 - 429

— 30 ~~data~~ 1263 (3-20)

Feb 16

78 pgs 740033 - 468

Board Exhibit No. 41-E

Feb 4 - 87 pgs 740240 - 520

Feb 5 - 87 pgs 740240 - 522

Feb 8 - 33 pgs 740527 - 420

Feb 9 - 22 pgs 740240 - 429

8 ~~data~~ 2130 (7.7)

3 1/2 pgs 1216 (6.6)

2 1/2 " 1095 (8.8)

Feb 10

59 ~~data~~ 1248 (4.9) - 485

16 pgs 1094

3 ~~data~~ 2030

Feb 11 9 hrs.

45 pgs 1094 (11) - 495

Feb 12 - 45 pgs 1094 - 495



299

BOARD EXHIBIT NO. 42.

6/25/37

By-Laws of the  
Rare Metal Workers of America,  
Local No. 1, Lake County, Illinois

Article I.

Sec. 1. This organization shall be known as the Rare Metal Workers of America, Local No. 1, Lake County, Illinois.

Sec. 2. To independently organize all workmen engaged in the craft except foremen, office workers, chemists and metallurgists to bargain collectively through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and to educate the craft to cooperate in every movement which tends to benefit the organization and the members thereof and the public; that our members must be sober, intelligent and naturally adapted to the business; to teach them to take advantage of their industrial position and to build up and perfect an impregnable independent labor organization and to secure the best possible conditions for our membership.

Sec. 3. To further these objects we ask our members to be loyal to this organization and give this organization their full support, and it is their duty to see that the following by-laws are enforced.

Article II.

Organization.

Sec. 4. The Rare Metal Workers of America, Local No. 1, is organized for the purpose of bettering the conditions of the craft and to bargain collectively through representatives of their own choosing and to engage concerted action for the purpose of collective bargaining or other mutual aid or protection independently of any other organization, and we therefore claim trade jurisdiction over all persons engaged in the craft in Lake County, Illinois.

Sec. 5. The membership fee shall be fifty cents for each charter member.

Sec. 6. The Executive Board shall have the authority to set the membership fee on all others who desire to affiliate with this organization and on all unorganized groups.

Sec. 7. Any applicant for membership shall make application for membership within two weeks from the date of employment, and the application shall be accompanied by a one-dollar membership fee.

Sec. 8. No applicant shall be allowed to sit in any meeting until voted on and accepted by the local at the next regular meeting after application for membership is presented by a majority present at the meeting.

### Article III.

#### Dues, Assessments and Delinquencies.

Sec. 9. The dues shall be fifty cents per month payable in advance.

Sec. 10. There shall be no assessments imposed upon the members at any time or for any reason.

Sec. 11. All members in arrears 60 days shall be immediately investigated. All members working at the craft who are more than sixty days in arrears in dues shall stand suspended, and must appear before the Executive Board before disposition of their case. Any member who has been suspended for nonpayment of dues at a regular meeting cannot be reinstated unless he pays a \$1.00 reinstatement fee and all dues charged against him at the time of his suspension.

301 Sec. 12. Charges against members shall be made in duplicate to the Executive Board. The individual against whom charges are preferred shall be notified and given a copy of the charges and shall be granted sufficient time in which to prepare his side of the case and shall be notified as to the time and place of the trial. He shall be given a trial before the Executive Board, and the findings of the Executive Board shall be final, unless either side desires to appeal from the decision of the Executive Board. All appeals from the Executive Board shall be taken before the Assembly.

### Article IV.

#### Meetings.

Sec. 13. Regular meetings shall be held once each month. All members must be present at each meeting and those

absent three consecutive months, without a legitimate excuse, shall be fined \$1.00.

Sec. 14. A special meeting of the organization may be called at any time by a majority of the Executive Board, but no business can be transacted except that named in the call.

Sec. 15. A quorum shall consist of fifteen members in good standing.

### Article V.

#### Withdrawal Cards.

Sec. 16. Withdrawal cards will be granted to all not working at the craft for two months or less requiring no dues for that period. Withdrawal cards held over two months require bearer to pay all back dues.

### Article VI.

#### Nominations and Elections.

Sec. 17. The officers of the organization shall consist of a President and Vice-President and Secretary and Treasurer, three Trustees, (all of whom shall be elected at large), and an Executive Board. The Executive Board shall consist of the President, Vice-President and eleven Representatives to be selected as follows, to-wit: one representative from Building 5, from shipping room, stock room and inspection department; one representative from the entire second floor, Building 5; one representative from the entire third and fourth floors, Building 5; one representative from maintenance and yard gang; one representative from the entire basement of Building 3, one representative from the first floor of Building 3, from assembling and contact inspection department; one representative for the rest of women in Building 3 from the first floor; one representative of men from the first floor, Building 3; one representative from the entire second floor, Building 3; one representative from Buildings 8 and 9; and one representative from Buildings 1 and 2.

The three Trustees shall be elected by the Assembly at the same time that the other officers are elected, but one of which trustees shall serve for one year, one for two years, and one for three years. After the first election of trustees, they shall draw lots to determine who shall hold the respective terms of one, two, and three years respectively. Nominations of offi-

cers of this organization shall be made at a meeting in April of each year, and installation and taking of offices shall be the first meeting in May following the election. All officers and members of the Executive Board (except trustees) shall hold office for one year. No officer can hold more than one elective office.

### Article VII.

#### Salary or Compensation.

Sec. 18. No officer shall draw any salary or compensation except the Secretary and Treasurer. The salary of the Secretary and Treasurer shall be fixed by the Assembly at the first regular meeting after election.

### Article VIII.

#### Duties of the Officers.

Sec. 19. It shall be the duty of the President to preside at all meetings of the organization and transact such business as the organization may direct. He shall see that the by-laws are enforced. The President shall call the meetings to order promptly, and in case of his absence the Vice-President shall act for him. If both are absent the Secretary shall perform their duty, and the organization shall proceed to elect a chairman who shall conduct the meeting until the arrival of the proper officers.

Sec. 20. The Secretary's duties shall be to keep a record of all meetings. The Treasurer shall keep an accurate account of all moneys received and paid out by him upon the order of the Trustees, and shall collect the dues and fines, if any. The Treasurer's report to be read at all regular meetings of all moneys received and payed out since previous meeting. Trustees shall have custody of all property of the organization and pass on all bills to be incurred or approved before payment.

Sec. 21. Any member of this organization may bargain as an individual with the employer as to rates of pay and wages or working conditions or any other matter pertaining to his or her employment. Any member of this organization who shall feel aggrieved or have any other complaint as to rates of pay, wages or working conditions, or any other matters pertaining to his or her employment shall submit such

grievance or complaint in writing in duplicate to the member of the Executive Board who represents his group, who in turn shall submit one copy of the same to the President, whose duty it shall be to immediately call a meeting of the Executive Board to act on the complaint or grievance, as the case may be. The action of the Executive Board shall be final. The

Executive Board shall consist of the President, Vice-  
304 President, and Representatives of each group.

A strike can only be called upon a vote of 75% of the entire membership of said organization. All voting requiring 75% majority of members of the organization shall be by secret ballot.

This organization cannot affiliate without a vote of seventy-five per cent of all the members thereof at a regular or specially called meeting. Any member of this organization may affiliate with any other union, if he so desires, but for the purpose of collective bargaining with Fansteel Metallurgical Corporation, he must cooperate with this organization.

There shall be an Arbitration Board which shall consist of three members of the Executive Board, two permanent and one from the group where any grievance arises. The two permanent members of said Board shall be selected by the Executive Board. Should the grievance occur in the group of which a permanent member is selected, then and in that event the third member shall be selected by the Executive Board from another group.

## Article IX.

### Miscellaneous.

Sec. 22. Special Committees may be selected by the President from time to time as deemed necessary. They shall act promptly on matters referred to them and may be discharged at the will of the President. All committees shall perform the duties assigned them within the time specified and report their result to the Local in writing, which same shall be kept in the files of the Secretary.

Sec. 23. The Executive Board has the privilege of fining, within reason, any member for violation of any of the by-laws of this organization, upon giving him notice of the charges and a fair and impartial trial.

Sec. 24. Seniority rights of employees shall be covered in the working agreement with the employers.



## Article X.

## Amendments.

Sec. 25. The wording of any of the Articles or Sections of these By-Laws cannot be changed except by amendments made in due form. Amendments can be made at any regular meeting in the following manner: After the wording of the proposed amendment has been agreed upon by the Assembly, it shall be read to said Assembly twice by the Secretary. The proposed amendment shall then be tabled until the next regular meeting. At this meeting it shall be brought out under new business and read again to the Assembly by the Secretary. After this reading the voting shall follow. A majority of the votes cast is necessary to enact the amendment or reject it.

## BOARD EXHIBIT NO. 43.

6/25/37

State of Illinois }  
County of Lake } ss.

## IN THE CIRCUIT COURT OF LAKE COUNTY.

Fansteel Metallurgical Corporation,	} Gen. No. 37551.
<i>Plaintiff,</i>	
<i>vs.</i>	
Lodge 66 of the Amalgamated Association of Steel, Iron and Tin Workers of North America, <i>et al.</i> ,	
<i>Respondents.</i>	

## OPINION OF COURT.

June 8, 1937.

308 Court convened pursuant to recess taken at 2:30 o'clock P. M. of the same day.

The Court: Gentlemen, I presume that you having had your say it is now my turn. I have listened with the closest attention to everything that has been said during this hearing covering the period of six days or more, and I am now going

to attempt to give you my conclusion as to what I—the deductions which I draw from the evidence that was submitted here in court.

The Fansteel Company is a corporation duly organized and doing business at North Chicago, Lake County, Illinois; it employs upwards of 380 people; its plant consists of about seven and a half acres of land upon which are fifteen buildings bearing numbers. Buildings 3 and 5 were occupied by strikers from February 17th to 26th inclusive. These two buildings were vital points in keeping the plant in operation. In Building 3 about 100 persons were employed, in Building 5 about 67 persons were employed. At about 2:30 P. M. on February 17th, 1937, the whole plant was shut down by certain of the employees refusing to proceed with their regular line of duties. It appears from the evidence that certain of the employees of the company recently had become members of a union at the suggestion and under the guidance and directions of persons strangers to them and to the company for which they were working, which said union was called Lodge No. 66 of the 309 Amalgamated Association of Iron, Steel and Tin Workers of North America, an affiliate of another group of unions, or union, referred to generally as CIO, with headquarters some place not revealed by the evidence.

It appears further that on said 17th of February a group of persons referred to as a bargaining committee of said Lodge 66 left their duties as employees of said company and called upon the managing officer of the company making certain demands regarding what said committee called "collective bargaining" and also the recognition of said union to that end. All this on company time. Said committee received an indefinite answer, and the persons composing said committee immediately retired to some part of the company's plant and decided to call a strike. That by some method not revealed by the testimony, within a few minutes word reached the different parts of the plant, and the plant was shut down by the strikers and production ceased, the workers, however, remaining in and about the various buildings of the plant, idle and refusing to perform their customary duties. That almost immediately all doors, especially in Buildings 3 and 5, key buildings of the plant were barricaded, and all superintendents, managers, officers of the company were refused admittance. By reason of the key premises of said plant being thus seized and closed, the whole industry was brought to a complete standstill.

The company procured an injunction out of the Circuit Court of Lake County, Illinois, commanding said occupants so in illegal possession of said buildings to vacate the same,

which injunction writ was served on said strikers by the 310 sheriff of said county or his duly qualified deputies by

reading the same to said strikers as they were crowded about the open windows in the buildings 3 and 5 and by the sheriff or his deputies informing said strikers orally the purport of said writ and by handing copies of said writ to the persons so about said windows, one copy for each person known to be within said buildings. The sheriff demanded entrance to said buildings by virtue of said writ and was refused admittance; that the copies of said writ of injunction were posted over all doors leading into said buildings and in numerous other places in and about the premises. That all occupants of said premises 3 and 5 knew of the sheriff's demands and of the existence of said writ or could have known every detail except by wilful act of negligence they refused to acquaint themselves therewith. That all occupants knew or could have known by the exercise of the least amount of common sense that they were trespassers and unlawfully occupying said premises to the company's damage and against the peace and dignity of the community and in direct violation of the solemn mandate of this court served upon them by the duly qualified officers of said court, county and state. That disregarding said writ, the said occupants determinedly, doggedly and wilfully refused to vacate said premises, but continued to refuse and resist the demands for possession made upon them, and they, acting in agreement with confederates not within said premises set about to arrange, or had arranged in advance, to have food, cooking utensils, bedding, etc. smuggled into said Building 3 and 5 for the de-

311 termined purpose of keeping possession of said buildings indefinitely in flagrant defiance of said court injunction,

the said outside confederates and meddlers doing this for the sole purpose of aiding and abetting those unlawfully inside and in a manner to encourage the occupants in said Buildings 3 and 5 to continue to resist the due processes of law, order and everyday ordinary common sense, decency and contrary to orderly government, peace and dignity.

The evidence clearly reveals that the sit-down strike at the plant of the Fansteel company was conceived in sin and born in inequity; that its origin sprang from the perverted minds of so-called organizers who wander from factory to factory

throughout the country, having been sent by subversive designers under the guise of bettering the conditions of factory and others workers, but, in reality, are only fomenters of strife, trouble and defiers of law and order, their aim by subversive means being to gain their point and reap the advantage to themselves by disorganizing orderly business.

Such is the undoubted background of the sit-down strike at the Fansteel Company's plant.

I should have stated earlier that the evidence is beyond question that every striker in Buildings 3 and 5 was discharged by the company immediately it was learned that they had forsaken their duties and refused to continue with their assigned work.

Many of the Company's employees have been with the Company for years; but the evidence does not reveal that there was ever any disharmony with the Company, or any 312 unrest or dissatisfaction among the employees until after certain of those known peripatetic so-called organizers came into their midst and preached to them subversive doctrines of advantage by their joining hands and forming a chain with numerous other long-named groups and all dominated by some supreme Mogul having dictatorial propensities.

While the matter before us to receive consideration and to decide is: Did these men who occupied Buildings 3 and 5 on the Fansteel Company's premises violate the Injunction order of this Court issued and served on them on February 18, 1937. No Court can deliberately shut his eyes and stop up his ears against that which has come to the surface from evidence introduced in this inquest. It is perfectly obvious that such evidence as has seeped through on behalf of respondents is but a thin scum of the real facts behind the sit-down strike, and of the subversive purposes of the strike. That angle of the question was not germane to the immediate purpose of the inquiry which has been made, yet the respondents' counsel even over objections which were sustained, repeatedly and repeatedly endeavored to try to show that the men on strike were acting within what they termed "their rights", based upon some specious propaganda spawned by persons claiming to be benefactors, regardless of the fact that the Court's injunction had ordered them out of the premises; and witness after witness on the part of respondents tried to evade knowledge of the injunction and to justify their staying in the 313 premises in defiance of the Court Writ.

There can be no doubt that every man who remained in

the premises did so with full knowledge both actual and implied, of the existence of the Writ of Injunction. The officers of this Court did all they could by reason of the strikers barricading the premises, and all the law required of them under the circumstances, to make known the existence of the Injunction Writ.

These men agreed that they were acting as a unit. Their so-called "Bargaining Committee" voted the strike and the men who were in the building when the strike was called by not then and there protesting and leaving the premises must be regarded as endorsing the acts of the so-called "Bargaining Committee" which was presumed to speak for all of them; and the knowledge of the existence of the Writ must be imputed to all of them.

The proof is overwhelming that very many of the men in the premises actually heard the Injunction Writ read, and heard the Sheriff's demands for possession; yet they wilfully and designedly refused to surrender the premises.

Also, the evidence is overwhelming that the men deliberately decided to ignore the Injunction.

Before and after the Injunction was served, and before and after a Writ of Attachment was issued, certain foreign confederates knowing of the Injunction and of the Attachment Writs, by verbal communications and otherwise, advised, harrangued, encouraged, aided and abetted the men on strike and advised them "to stick", to "sit tight" and that 314 they would win, implying thereby their assumed object in striking, the intent of such encouragement clearly being in defiance of the legal ordinances of orderly government.

The evidence further is clear beyond all reasonable doubt, while it crept into the record as a side issue, that for a considerable period of time prior to February 17, 1937, the date of the strike, certain of the men, if not all of them who went on strike, were schooled, instructed and counseled on what to do, by outsiders not residents of the County and State; that they had even decided on what particular parts of the Fansteel Plant to tie up first, in the event of a strike; that the day in question, to-wit, February 17, 1937, was decided upon as the date to strike; that on that date, on Company's time, in the plant of the Company, the so-called "Bargaining Committee," whatever that may mean, left their duties as individuals and employees, met, counseled, deliberated, and voted to tie up the plant; that by prearrangement they ordered certain employees who were not in agreement with said strikers,



from the premises; that the strikers through their leaders barricaded the doors; they organized and assigned guards for doors, windows and other possible approaches to the inside of Buildings 3 and 5—key position buildings; that they set up a form of military organization having captains, sergeants, corporals, clerks, etc., etc.; that they as strikers refused admittance to superintendents, managers and officers of the

Company, and generally they dominated Buildings 3 and 315 5 to the absolute exclusion of all direction and control over the said buildings and the machinery, equipment, supplies, materials raw and finished by any officer or agent of the company, and thereby absolutely stifled the business of the Company.

The evidence also is clear beyond all reasonable doubt that all men within Buildings 3 and 5 were discharged from the Company's employ for failure to continue the duties assigned to each of said striking men, and that the knowledge of such discharge was conveyed to said men and became the common knowledge of each of them; that said discharge was because said men ceased to continue in the performance of their several duties, and their said refusal to proceed with said duties ipso facto severed their connection with the Company; that at such discharge, by their remaining in said premises and their refusal to vacate the same said discharged men became trespassers.

The evidence further is overwhelming, notwithstanding attempts to conceal the facts, that a large majority of the striking men agreed to resist the sheriff, or other officers of the law, to the utmost, even to the extent of using physical force and miscellaneous weapons in the event such officers should attempt to take possession under the law. The proof of this agreement to resist is further and positively established by the fact that when the sheriff and his Deputies on February 19, 1937, demanded possession, and such demand for pos- 316 session was refused, and when the Sheriff and his assistants in the lawful exercise of his and their office attempted to force upon the barred entrances to said buildings, said Sheriff and his assistants were confronted by the strikers who through open windows, many of which the strikers had broken, bombarded the Sheriff and his force with miscellaneous missiles such as metal spools, tools, pieces of iron and other metals and objects, also acid bombs and dangerous weapons of a kind and character which if they had struck the sheriff and the members of his force of deputies, easily might

have killed him or them; that the onslaught of missiles thrown by the men from the Buildings 3 and 5 was so terrific and continuous, and the force of the Sheriff then at hand was so inadequate without using more convincing force which might have resulted in some deaths on the part of both strikers and the Sheriff and his force, said officers withdraw, leaving the strikers still in possession of said buildings 3 and 5 swearing and cursing at the Sheriff and his men and still in defiance of the Court's Injunction.

That in face of the fact well known to them that said strikers were occupying Buildings 3 and 5 in rebellious defiance of the injunction of February 17th, and of the general laws of the land relating to the rights of property, certain known agitators as mischief-makers from outside the fence surrounding the Fansteel Company's properties, and in 317 knowing defiance of the Injunction Writ, shouted encouragement to the men unlawfully within and offered to them assistance such as food, bedding, etc. and did bring such supplies and other things to said strikers, which articles of supplies were drawn into said buildings by means of ropes passed from said buildings outward and beyond the fence surrounding said Plant to said strikers within, thus aiding and abetting said strikers in their illegal occupancy of said premises and in defiance and utter disregard of the Injunction of this Court.

The evidence further reveals that beyond question certain of the known agitators acting from outside of the fence surrounding the Fansteel Plant were and are not residents of the State of Illinois, but that they were and are in the employ of and operating under and by direction of nationally known organizations claiming to be acting for the betterment of the conditions of the men and women employed in various industries throughout the land. It cannot but be observed that if such organizations and the agitators calling themselves advisors or counsellors of employees referred to above as abetting the strikers in question, were acting and doing as the agitators about the Fansteel Plant did act and do, and these last mentioned were so acting in accordance with the plans and wishes of said nationally known organizations, then, indeed, all such organizations and the men they sent out as advisors and propagandists cannot be classified other than as social and economic wreckers, meddlers and blatant disturbers of the harmony and tranquility of the whole community,



and should be frowned upon by every law abiding and peace  
and liberty loving citizen, and such cannot expect any self-  
318 respecting Court to show them leniency.

It certainly appears strange to have it uncovered in an  
inquest in a Court of Chancery, in a cause involving the viola-  
tion of an injunction against a group of strikers unlawfully  
and defiantly occupying property, that within less than three  
days from such unlawful seizure an investigator for the Sub-  
Committee of the Committee on Civil Liberties, presumed to  
be a body with lofty motives and a sponsor for the lawful  
rights of all citizens, regardless of creed, color, or political  
affiliation, should have had its ear so close to the ground as to  
hear the tread of strikers feet on the floors of the Fansteel  
Plant, and to be moved through said Committee's Chairman,  
or other person, to send such investigator to look in upon the  
Fansteel strike; and it is further most astonishingly strange  
that said investigator, immediately upon arriving at Wau-  
kegan, Illinois, should go directly to the rendezvous of two of  
the propagandists who had been and were encouraging and  
abetting the strikers in the Fansteel Plant, and then and there  
learned that an injunction mandatory in its nature had been  
issued out of the Circuit Court of Lake County commanding  
said strikers to vacate and yield up the premises seized and  
unlawfully occupied by them. And it is, further, astonishingly  
strange that said investigator visited the strikers almost im-  
mediately to inquire about their civil liberties, and that there-  
after said investigator assisted in providing the strikers with  
food and other articles of comfort when they could have better  
served themselves in their own homes, and looked upon  
319 them and acted toward them as if they were the subjects  
of oppression and abuse; but for some reason, unrevealed,  
said investigator did not counsel the strikers as a real liberty  
loving friend should have done to obey the laws and the  
orders of Court and go home, clean up, take food with their  
families, and honor the laws and respect duly constituted au-  
thority, instead of violating the sacred precepts that underlie  
a civilized community. Not so; this man, whether acting in-  
dividually or as an investigator for any sort of a committee,  
by virtue of his position which was known to the strikers  
inside, and by his procuring for them food and other com-  
forts, aided and abetted men who were acting in utter defiance  
of law and order and encouraged them to continue in such  
defiance, and by so doing he was and is in contempt of this  
court.

The whole community, far and near, from North Chicago in Lake County, Illinois, to the oceans east and west and to the Nation's boundary lines north and south have heard of the sit-down strike in the Fansteel plant; and the newspapers and magazines which have any respect for law, order and decency regarding civil and property rights have asked and are asking not only when and where are civil and property rights sacred, but the far more important questions: Are the laws of our land, that actually are recognized as laws, to be enforced? Are the Courts functioning, hitting on every cylinder of their power plant? Are their Writs and Orders to be obeyed, or are they to be mere practice tablets for attorneys, clerks, sheriffs and Judges to be laid aside and cooped up in pigeon holes in dusty cabinets to become bedding for rats and mice?

320 There are none so blind as those who will not see beyond the length of their own noses. Whenever men or women operatives in any plant, whether in North Chicago, Illinois, or elsewhere, anywhere, take it upon themselves to kick the hand which feeds them, and then seize the possession of that hand's property, and deny to it every legal right to operate a business, and let his plant fall into waste to an immeasurable degree, and all this to the unspeakable shame and disgrace of the whole community, far and near, then it is high time for law-abiding civic bodies, legislatures, and particularly for the courts which stand as the protectors of civil and property rights, to open their eyes and see what subversive propaganda and movements and men are doing in this our fair land, our home-land, and having seen, let them act to the full measure of their power and authority—those in authority, not in fear or favor of man or movements, or organizations, white or red, but in due regard of law and order, in conformity with their oaths of office and as the protectors of our common heritage—Our Country and its sacred precepts of peace, liberty and the pursuits of happiness.

I would be derelict and remiss in my duty as Judge of this Court, if, under the showing made in this hearing during the past six or more days, I closed my eyes to the horrible and dishonorable mess and rape upon law and order, and did not find the perpetrators or some of them, (for they are not all definitely known—some of the guiding hands and heads are using the strikers in question as cat's paws) 321 and some of the actors in the strike, Guilty of wilfully and wantonly violating the Writ of Injunction which was

issued out of this Court on February 18, 1937. I have burned the midnight lamps studying the record made and there can be no question but that the actors in the strike are guilty, not all, however, in equal degree. I feel that the offenders fall into five classifications or degrees of guilt.

The respondents may be divided into five classes:

In the first group, I place respondents who, according to the evidence, remained in the premises without any definite indication of a desire to withdraw or without giving evidence of their disapproval of the action of the more militant men who were acting in defiance of the Court orders. The evidence, however, does not show that these men took any definite part in defying the order of this Court or the efforts of the enforcement authorities of Lake County in carrying out the orders of this Court. These men are clearly in contempt of Court but their conduct was not such as to aggravate their offense. In this group, I place the following and upon them I impose the following judgment.

Mr. Collins: Before you pass sentence may I make a motion for a new trial?

The Court: No, you cannot.

Mr. Collins: May I make a motion in arrest of judgment?

The Court: No, you cannot. Judgment has not been entered as yet. As I call the names of these men I want them to come forward and take seats over here somewhere—

322 Steve Ark  
Ed Brunke  
Al. Bunton  
Jerome Camernik, Jr.  
Gus Canelakes  
Vincent Dietmeyer  
Joe Chudy  
Clarence Dreyer  
Stanley Grum  
Art Holm, Jr.  
George Kallio  
Edward Kaucic  
Tony Kancilja

The Court: Did Tony Kancilja respond?

A Voice: That is the man that is sick.

Frank Musech  
Angelo Galbavy  
David Nostell  
Anton Nagode

Merritt Pratt  
 Robert Pratt  
 Andrew Rode  
 Alvar Rommppaine  
 Arvo Rommppaine  
 Peter Skarbalus  
 Luther Small

The Court: Are there twenty-three there? I will call the names:

Steve Ark.	A. Here.
Ed. Brunke.	A. Here.
Al. Bunton.	A. Here.
Jerome Camernik, Jr.	A. Here.
Gus Canelakes.	(No Answer.)
Vincent Dietmeyer.	A. Here.
Joe Chudy.	A. Here.
Clarence Dreyer.	A. Here.
Stanley Grum.	(No answer.)
Art Holm, Jr.	(No answer.)
323 George Kallio.	(No answer.)
Edward Kaucic.	A. Here.
Tony Kancilja.	(Not here.)
Frank Musech.	A. Here.
Angelo Galbavy.	A. Here.
David Nostell.	(No answer.)
Anton Nogode.	A. Here.
Merritt Pratt.	A. Here.
Robert Pratt.	A. Here.
Andrew Rode.	A. Here.
Alvar Rommppaine.	A. Here.
Arvo Rommppaine.	A. Here.
Peter Skarbalus.	(No answer.)
Luther Small.	A. Here.

A Voice: Stanley Grum is in quarantine with scarlet fever.

Mr. Glaser: I understand one you called is sick.

The Court: There are 1, 2, 3, 4, 5, 6 that are not here. As to each person named in group 1, the Court finds each said person guilty and pronounces judgment against him as follows:

A money fine of \$100. and in addition thereto that he be confined in the County Jail for the period of ten days, or until discharged according to law.

I don't know where we are going to take care of the rest of this group. Where can we have some more men, Mr. Sheriff?

The Bailiff: We can take these men into the side room.

The Court: All right. Take them into the jury room there.

324 Mr. Glaser: May I ask the court to let these defendants go on their own bail as they were before. They are all local people and they won't go away; until we can decide whether we will pay their fine or whether we decide to appeal.

Mr. Keele: Can we wait until we get all through?

The Court: In the second group of respondents, I place those men who, according to the evidence, acted as leaders or by their acts or words indicated a total disregard for the orders of this Court, the efforts of the duly constituted authorities to enforce such orders and the life and safety of the enforcement officers who were making such effort. By their words or acts and by their assumption of certain duties of leadership, they have definitely placed themselves among those who acted in flagrant disregard of the orders of this Court and the duly constituted authorities and the rights of the plaintiff. These men should receive heavier penalties than the men in Group 1. In this group I place the following respondents: As your names are called men come to the jury box over here.

Roy Brown  
Lester Crump  
R. E. DuBois  
Harold Dreyer  
John Kondrath  
Herman Latz  
Elsworth Peters  
Joseph Richveis  
Fred Yaeger  
Frank Zelenik

The Court: Are there eleven men here?

Mr. Swerin: Peters is missing and I understand he is out of the county.

325 The Court: Elsworth Peters does not answer.

Mr. Swiren: I am told he is not in court.

The Court: There are ten here?

The Clerk: You have ten there.

The Court: As to each person allocated to Group 2, the Court finds each person therein named guilty and enters judgment against him as follows:

A money fine of \$150.00 and in addition thereto that he

be confined in the county jail for 120 days, or until discharged according to law.

In the third group, I place two respondents, viz: Charles Warner and Carl Swanson. The court finds you guilty and pronounces judgment as follows against you:

A money fine of \$300.00, and in addition thereto that you be confined in the county jail for 180 days or until discharged according to law.

These men, according to the evidence, were the leaders of the men in Buildings Nos. 5 and 3 respectively. These are the men who gave the orders and who in all respects assumed the duties and obligations of leadership of the men in their respective buildings. By their acts and deeds, they showed themselves to have a total flagrant and malicious disregard for the orders of this Court, the efforts of the law enforcement officers in carrying out those orders, for the life and safety of themselves, of the men in the building with them and of those who are attempting to dislodge them as well as the rights of the plaintiff. As wilful and persistent contemners of the Court, they should receive severe penalties.

In the fourth group, I have placed those respondents who more than anyone else are responsible for these proceedings. They are the men who undoubtedly led, counseled and advised all of the other respondents. They were men of experience in the matters involved, in the events leading up to and connected with the acts for which the respondents are on trial.

It would appear from the evidence that these men easily might have prevented the acts of violence which have been so clearly shown by the evidence in this case. During the time that the men were in Buildings Nos. 3 and 5, these two men appeared almost daily and gave encouragement to the men in their wilful defiance of the orders of this court. The inference is clear that had these men chosen, they could have ended at once the contempt being committed against the court but they did not choose so to do. Instead, by their acts and words, they encouraged those men acting in defiance of the court and its orders to continue their defiance of the duly constituted authorities of Lake County, and upon them more than upon anyone else rests the responsibility for the regrettable acts that were committed by the respondents. These men were not employed in or about or by the Fansteel Company nor were they permanent residents of Lake County. They came to this vicinity only a short time before the events



complained of took place and ejected themselves voluntarily into the lives and work of the other respondents.

327 Throughout the period the men remained in the Fansteel Company's plants in defiance of the orders of this court, these men continually aided and abetted the other contemnors of this court. Their behavior and conduct indicates by far the most flagrant and virulent disregard of law and order and the efforts of the duly constituted authorities of this county to maintain law and order. Accordingly, they should be punished more severely than any of the other respondents. These men are: Meyer Adelman and Oakley Mills, and you, Meyer Adelman, the Court finds you guilty and pronounces judgment against you as follows:

That you pay to the clerk of this court, in this case, a money fine of \$1,000.00, and in addition thereto that you be confined in the county jail of Lake County, Illinois, for a term of 240 days or until discharged according to law, and you, Oakley Mills, the Court finds guilty and it imposes on you a money fine of \$500.00 and that in addition thereto that you be confined in the County Jail of Lake County, Illinois, for a period of 180 days or until discharged according to law.

In the fifth group, I place certain of the respondents who, according to the evidence, were in the plant unwillingly or at some time during the time that they were in the plant by their acts or words indicated a desire to withdraw and a disapproval of the acts of the men acting in disregard of the injunctive order. Such men, while they may have been technical contemnors of the Court, were obviously not acting in flagrant defiance of the Court orders. Some of these men were men who entered the plant wrongfully but prior to 328 the issuance of any injunction, and by their acts and words at a later date indicated that they were aware of the gravity of their acts and desired to quit the premises at the earliest possible moment or indicated by actions or words their disapproval of the acts of the more flagrant offenders. In this group are also men concerning whom no evidence of any kind has been introduced. Some of these men are entitled to a discharge. Others in this group may deserve some punishment but I would like to consider their cases further and continue them for the present. In this group, I place the following whose cases will be continued. I might say this group includes a long list, all of the other respondents whose names I have not already read off and pronounced judgment against. Those I want to study further and see whether I



shall pronounce any serious judgment against them. I have a great long list here. It is a list of hard names. I will hand this list to the clerk. Gentlemen, I have finished.

329 State of Illinois }  
County of Lake } ss.

I, Albert P. McDermott, official reporter in and for the Circuit Court of Lake County, in the State of Illinois, Do Hereby Certify that the foregoing is a true and correct copy of the Opinion of the Court in the case of Fansteel Metallurgical Corporation, Plaintiff, *vs.* Lodge 66 of the Amalgamated Association of Iron, Steel, and Tin Workers of North America, Respondents, Case Gen. No. 37551, in said Court, on the 8th day of June, A. D. 1937, and contained in the foregoing twenty-one typewritten pages.

Albert P. McDermott,  
*Official Reporter in and for the  
Circuit Court of Lake County,  
in the State of Illinois.*

330

## RESPONDENT EXHIBIT NO. 1.

6/10/37

IN THE CIRCUIT COURT OF LAKE COUNTY.

\* \* (Caption—37551) \* \*

## ORDER.

This cause coming on to be heard upon the duly verified petition of Fansteel Metallurgical Corporation, a corporation duly organized and existing under the laws of the State of New York, Plaintiff in this cause, filed herein on the 18th day of February, 1937, for attachment to show cause why the respondents therein named should not be adjudged in contempt of this Court for the violation of the Injunctive Order entered by this Court in this cause on February 18, 1937 and the Writ of Injunction issued pursuant thereto and punished therefor, as alleged in said petition; and the duly verified petition of said Fansteel Metallurgical Corporation filed herein on February 25, 1937 for the attachment of the respondents,

Meyer Adelman and Oakley Mills (therein referred to as 331 John Doe Mills) to show cause why the said respondents therein named should not be adjudged in contempt of this Court for the violation of the aforesaid Injunctional Order and the Writ of Injunction issued pursuant thereto and punished therefor, as alleged in said petition; and the duly verified supplemental petition of said Fansteel Metallurgical Corporation filed herein, pursuant to leave of Court first had and obtained, on March 22, 1937 for a rule upon all of the respondents therein named to show cause why the said respondents therein named should not be adjudged in contempt of this Court for violation of the aforesaid Injunctional Order and the Writ of Injunction issued pursuant thereto and punished therefor, as alleged in said supplemental petition; and the affidavits filed by the Plaintiff herein in support of the said petitions and supplemental petition; and the rules to show cause issued by this Court in connection with said petitions and supplemental petition and all orders entered with respect thereto; and the answer of the respondents to the said petitions and supplemental petition;

And it appearing to the Court that the respondents named in said petitions and supplemental petition received due notice of said petitions and supplemental petition and filed their answer thereto, and appeared in open Court in person and by counsel from time to time upon the hearings upon said petitions and supplemental petition, and that said hearings were from time to time continued by order of this Court until the 2nd day of June, 1937;

And it further appearing to the Court that the hearing on said petitions and supplemental petition and the affidavits filed by the Plaintiff in support thereof, the rules to show cause issued in connection therewith and the answer of the respondents therein named thereto, and the matters and things 332 therein referred to, began on the 2nd day of June, 1937 and continued from day to day thereafter up to and including the 8th day of June, 1937;

And it further appearing to the Court that all of the respondents named in said petitions and supplemental petition were present in open Court in person and by counsel at each and all of the hearings held on said days;

And the Court having read and considered said petitions and supplemental petition, the affidavits filed in support thereof, the answer of the respondents therein named thereto, the testimony of witnesses sworn and examined in open Court on

behalf of said Fansteel Metallurgical Corporation and said respondents, and the documentary and other evidence offered and introduced by the respective parties, and the Court having heard the arguments of counsel for the Plaintiff and for the respondents hereinafter named and being advised in the premises, Finds as Follows:

1. This Court has jurisdiction of the subject matter hereof and of all parties plaintiff and defendant in this cause and of the following respondents: Wilbert Braden, Howard Bond, George Kallio, Merritt Pratt, Robert Pratt, Nick Benkovich, Lee Stanley, John Germer, Ralph Hoffman, Oscar Westlund, A. Hanning, R. Ross, J. Kondrath, George Divine, Louis Bereczsky, Frank Latz, Frank Musech, Alvar Romppaine, Ray Grossenheider, Edward Kaucic, Milton Coon, Victor Weatherhead, George Cerk, Herman Latz, Nate Mogel, Art Sladek, Steve Ark, Frank Renek, Joe Chudy, Peter Skarbalus, Mike Zelenik, Andrew Rode, R. DuBois, Joe Petratis, Chester Hood, Frank Moxey, Cornelius Dugan, Theodore Ohlson, Casmir Petkus, Paul Wells, Gilbert Haney, Fred Hensley, Ed. Ruck, Eino Johnson, Alf Simonson, Tony Kancilja, 333 Wallace Bourdeau, Fred Karpinski, Elsworth Peters, Ted Christiansen, A. Anderson, Carl Swanson, Lester Crump, Charles Warner, Oscar Johnson, Art Holm, Jr., Frederick Yaeger, Alan White, Frank Ptak, Roy Brown, Jerome Camernik, Jr., Eugene Hendee, David Nostell, Vincent Dietmeyer, Andrew Bereczsky, Eric Schultz, Stanley Grum, Al Bunton, William Van Treek, Harold Dreyer, John Plewa, Anton Nagode, Ed. Brunke, Luther Small, Frank Nickoley, Frank Scheuer, Leo Daluga, Ed. Schuman, Clarence Dreyer, Elmer Luke, Victor Hertel, John Praski, Victor Oliver, Charles Fulkerson, Sr., Gus Canelakes, Angelo Galbavy, Steve Luczo, Arvo Romppaine, Frank Zelenik, Joseph Richveis, Oakley Mills and Meyer Adelman.

2. On the 17th day of February, 1937, at about the hour of 2:30 o'clock in the afternoon, certain buildings and properties of the Plaintiff, located in the City of North Chicago, Lake County and State of Illinois, were violently and unlawfully seized by certain of its employees without the consent of said Plaintiff, and the possession thereof withheld with force and arms from the Plaintiff.

3. Thereafter, on the same day, at the hour of 6:00 o'clock in the afternoon, the Plaintiff, through its duly authorized agents and representatives, demanded of said employees in possession of said buildings as aforesaid, the surrender of

said buildings and properties seized, held and occupied by said employees as aforesaid, and the said employees then and there refused to surrender said buildings to the Plaintiff or to comply with the said demand and remained in possession thereof as aforesaid. Thereupon and by reason thereof, that is to say, the refusal of the said employees to surrender the said buildings as aforesaid upon the request of the Plaintiff, the said Plaintiff, by its duly authorized agents, then and there discharged each and every one of said employees occupying said buildings, as aforesaid, from its employ and 334 then and there gave each and all of said employees due notice of their discharge.

4. Thereafter, on the 18th day of February, 1937 the Plaintiff duly filed its verified Complaint in this cause setting up the facts hereinbefore stated and made application to this Court for an Injunctional Order and Writ of Injunction which, after due hearing and consideration by the Court, was ordered and an Injunction Writ was issued on said 18th day of February, 1937, as more fully appears from the record in this cause.

5. The respondent, Meyer Adelman, was present in open Court at the time of the entry of said Injunctional Order by this Court on February 18, 1937 and had knowledge of the entry of said Injunctional Order and the provisions thereof.

6. All of the respondents named in Paragraph 1 hereof did, on the 18th day of February, 1937, receive and have notice and actual knowledge of the entry of said Injunctional Order by this Court on the 18th day of February 1937 and of the provisions thereof and of the Writ of Injunction issued pursuant thereto.

7. The following named respondents: Steve Ark, Ed. Brunke, Al. Bunton, Jerome Camernik, Jr., Gus Canelakes, Vincent Dietmeyer, Joe Chudy, Clarence Dreyer, Stanley Grum, Art Holm, Jr., George Kallio, Edward Kaucie, Tony Kancilja, Frank Musech, Angelo Galbavy, David Nostell, Anton Nagode, Merritt Pratt, Robert Pratt, Andrew Rode, Alvar Rommppaine, Arvo Rommppaine, Peter Skarbalus, Luther Small, Roy Brown, Lester Crump, R. E. DuBois, Harold Dreyer, John Kondrath, Herman Latz, Frank Latz, Els- 335 worth Peters, Joseph Richveis, Frank Yaeger, Frank Zelenik, Charles Warner and Carl Swanson, and each of them, was and is guilty of contempt of this Court for knowingly, wilfully and maliciously violating the Injunctional Order entered by this Court on February 18, 1937 and the Writ of Injunction issued pursuant thereto, in that they and each

of them, after said Injunctional Order was entered and after having received knowledge of said Injunctional Order and the contents thereof, did refuse to cease and desist from occupying and possessing that portion of the plants and properties of Fansteel Metallurgical Corporation located at North Chicago, Illinois, and from interfering with the Plaintiff's use and possession of such plants and properties, and refusing to vacate and remove from the said premises then occupied and possessed by them and deliver the same over to Fansteel Metallurgical Corporation, and in doing other acts and things, all as charged in the aforesaid petitions and supplemental petition hereinbefore described and referred to.

8. All of said respondents named in Paragraph 7 hereof, and each of them, have failed to show cause why they and each of them should not be punished for contempt of this Court for knowingly, wilfully, maliciously and unlawfully violating the said Injunctional Order entered herein on February 18, 1937 and the Writ of Injunction issued pursuant thereto.

9. Said contempt of the said respondents named in Paragraph 7 hereof tended to injure the rights and interests of said Fansteel Metallurgical Corporation, Plaintiff herein, and said contempt by the respondents thus named was calculated to, and did have the effect of, obstructing, impeding and thwarting the administration of justice and defying the process of this Court and did thereby tend to bring this Court into disrepute.

336 10. The respondents, Meyer Adelman and Oakley Mills, and each of them, after said Injunctional Order of February 18, 1937 was entered and the Writ of Injunction issued pursuant thereto and after they and each of them received actual notice and had knowledge of said Injunctional Order and the contents thereof, knowingly, wilfully, maliciously and unlawfully did violate said Injunctional Order so entered by this Court in this cause on February 18, 1937 and the Writ of Injunction issued pursuant thereto by aiding, assisting, abetting and facilitating the aforesaid respondents named in Paragraph 7 hereof in the wilful, malicious and unlawful violation of said Injunctional Order entered by this Court in this cause on said 18th day of February, 1937, and the Writ of Injunction issued pursuant thereto, all as charged in the aforesaid petitions and supplemental petition.

11. Said respondents, Meyer Adelman and Oakley Mills, and each of them, have failed to show cause why they and



each of them should not be adjudged in contempt of this Court for knowingly, wilfully, maliciously and unlawfully violating the said Injunctional Order of this Court entered herein on February 18, 1937, as aforesaid, and the Writ of Injunction issued on the same date pursuant thereto.

12. The contempt committed by said respondents, Meyer Adelman and Oakley Mills, tended to injure and impair the rights and interests of said Fansteel Metallurgical Corporation, Plaintiff herein, and the said contempt of the respondents, Meyer Adelman and Oakley Mills, and each of them, was calculated to, and did have the effect of, obstructing, impeding and thwarting the administration of justice and defying the process of this Court and of bringing this Court into disrepute.

13. It Is Therefore Ordered, Adjudged and Decreed 337 that the following respondents: Steve Ark, Ed. Brunke,

Al. Bunton, Jerome Camernik, Jr., Gus Canelakes, Vincent Dietmeyer, Joe Chudy, Clarence Dreyer, Stanley Grum, Art Holm, Jr., George Kallio, Edward Kaucic, Tony Kancilja, Frank Musech, Angelo Galbavy, David Nostell, Anton Nagode, Merritt Pratt, Robert Pratt, Andrew Rode, Alvar Rommppaine, Arvo Rommppaine, Peter Skarbalus, Luther Small, Roy Brown, Lester Crump, R. E. DuBois, Harold Dreyer, John Kondrath, Herman Latz, Frank Latz, Elsworth Peters, Joseph Richveis, Fred Yaeger, Frank Zelenik, Charles Warner, Carl Swanson, Oakley Mills and Meyer Adelman, and each of them, be, and is hereby adjudicated and adjudged guilty of and in contempt of this Court.

14. It Is Further Ordered, Adjudged and Decreed that said rules to show cause heretofore issued against the respondents named in the preceding paragraph hereof be, and the same are hereby made absolute.

15. It Is Further Ordered, Adjudged and Decreed that the said respondent, Steve Ark pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

16. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue

of the authority of the People of the State of Illinois, 338 to carry forthwith this sentence into effect by seizing the body of the said respondent, Steve Ark, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

17. It Is Further Ordered, Adjudged and Decreed that the said respondent, Ed. Brunke, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

18. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Ed. Brunke, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

19. It Is Further Ordered, Adjudged and Decreed that the said respondent, Al. Bunton, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the 339 period of ten (10) days, unless sooner discharged in due course of law.

20. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois, be and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Al. Bunton, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hun-



dred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

21. It Is Further Ordered, Adjudged and Decreed that the said respondent, Jerome Camernik, Jr., pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this court, for the period of ten (10) days, unless sooner discharged in due course of law.

22. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Jerome Camernik, Jr., and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

23. It Is Further Ordered, Adjudged and Decreed that the said respondent, Gus Canelakes, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, 340 for the period of ten (10) days, unless sooner discharged in due course of law.

24. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Gus Canelakes, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

25. It Is Further Ordered, Adjudged and Decreed that the said respondent, Vincent Dietmeyer, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County

Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

26. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Vincent Dietmeyer, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

27. It Is Further Ordered, Adjudged and Decreed That the said respondent, Joe Chudy, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

341 28. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Joe Chudy, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

29. It Is Further Ordered, Adjudged and Decreed that the said respondent, Clarence Dreyer, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

30. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois,

be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Clarence Dreyer, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

31. It Is Further Ordered, Adjudged and Decreed that the said respondent, Stanley Grum, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

32. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Stanley Grum, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

33. It Is Further Ordered, Adjudged and Decreed that the said respondent, Art Holm, Jr., pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

34. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Art Holm, Jr., and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the

payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

35. It Is Further Ordered, Adjudged and Decreed that the said respondent, George Kallio, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

36. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, George Kallio, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

37. It Is Further Ordered, Adjudged and Decreed that the said respondent, Edward Kaucic, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

38. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Edward Kaucic, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

39. It Is Further Ordered, Adjudged and Decreed that the said respondent, Tony Kancilja, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition

thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

344 40. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Tony Kancilja, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

41. It Is Further Ordered, Adjudged and Decreed that the said respondent, Frank Musech, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

42. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois, be and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Frank Musech, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

43. It Is Further Ordered, Adjudged and Decreed that the said respondent, Angelo Galbavy, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

345 44. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of



Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Angelo Galbavy, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

45. It Is Further Ordered, Adjudged and Decreed that the said respondent, David Nostell, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

46. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, David Nostell, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

47. It Is Further Ordered, Adjudged and Decreed that the said respondent, Anton Nagode, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, and in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

48. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Anton Nagode, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the

payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

49. It Is Further Ordered, Adjudged and Decreed that the said respondent, Merritt Pratt, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

50. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Merritt Pratt, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

51. It Is Further Ordered, Adjudged and Decreed that the said respondent, Robert Pratt, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

52. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Robert Pratt, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

53. It Is Further Ordered, Adjudged and Decreed that the said respondent, Andrew Rode, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition



thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

348 54. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Andrew Rode, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

55. It Is Further Ordered, Adjudged and Decreed that the said respondent, Alvar Rommpaine, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

56. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Alvar Rommpaine, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

349 57. It Is Further Ordered, Adjudged and Decreed that the said respondent, Arvo Rommpaine, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

58. It Is Further Ordered, Adjudged and Decreed that the

Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Arvo Rommppaine, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

59. It Is Further Ordered, Adjudged and Decreed that the said respondent, Peter Skarbalus, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

60. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Peter Skarbalus, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

61. It Is Further Ordered, Adjudged and Decreed that the said respondent, Luther Small, pay a fine of One Hundred Dollars (\$100.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of ten (10) days, unless sooner discharged in due course of law.

62. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Luther Small, and him safely keep in the County Jail of the County of Lake, State of Illinois,

for and until the expiration of the period of ten (10) days and the payment by said respondent of the said fine of One Hundred Dollars (\$100.00) to the Clerk of this Court, unless sooner discharged in due course of law.

63. It Is Further Ordered, Adjudged and Decreed that the said respondent, Roy Brown, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one Hundred and twenty (120) days, unless sooner discharged in due course of law.

351 64. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Roy Brown, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

65. It Is Further Ordered, Adjudged and Decreed that the said respondent, Lester Crump, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

66. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Lester Crump, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

67. It Is Further Ordered, Adjudged and Decreed that the said respondent, R. E. DuBois, pay a fine of One Hundred

Fifty Dollars (\$150.00) to the Clerk of this Court, and in  
352 addition thereto, he be and is hereby committed to the  
County Jail of the County of Lake, State of Illinois,  
there to remain charged with contempt, as heretofore found  
by this Court, for the period of one hundred and twenty  
(120) days, unless sooner discharged in due course of law.

68. It Is Further Ordered, Adjudged and Decreed that the  
Sheriff in and for said County of Lake and State of Illinois  
be, and he is hereby commanded, in the name and by virtue  
of the authority of the People of the State of Illinois, to carry  
forthwith this sentence into effect by seizing the body of the  
said respondent, R. E. DuBois and him safely keep in the  
County Jail of the County of Lake, State of Illinois, for and  
until the expiration of the period of one hundred and twenty  
(120) days and the payment by said respondent of the said  
fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of  
this Court, unless sooner discharged in due course of law.

69. It Is Further Ordered, Adjudged and Decreed that  
the said respondent, Harold Dreyer, pay a fine of One Hun-  
dred Fifty Dollars (\$150.00) to the Clerk of this Court and,  
in addition thereto, he be and is hereby committed to the  
County Jail of the County of Lake, State of Illinois, there to  
remain charged with contempt, as heretofore found by this  
Court, for the period of one hundred and twenty (120) days,  
unless sooner discharged in due course of law.

70. It Is Further Ordered, Adjudged and Decreed that  
the Sheriff in and for said County of Lake and State of Illi-  
nois be, and he is hereby commanded, in the name and by  
virtue of the authority of the People of the State of Illinois,  
to carry forthwith this sentence into effect by seizing the body  
of the said respondent, Harold Dryer, and him safely keep  
in the County Jail of the County of Lake, State of Illinois,  
for and until the expiration of the period of one hundred and  
twenty (120) days and the payment by said respondent of  
the said fine of One Hundred Fifty Dollars (\$150.00) to the  
Clerk of this Court, unless sooner discharged in due course  
of law.

71. It Is Further Ordered, Adjudged and Decreed that  
the said respondent, John Kondrath, pay a fine of One Hun-  
dred Fifty Dollars (\$150.00) to the Clerk of this Court and,  
in addition thereto, he be and is hereby committed to  
353 the County Jail of the County of Lake, State of Illinois,  
there to remain charged with contempt, as heretofore  
found by this Court, for the period of one hundred and twenty  
(120) days, unless sooner discharged in due course of law.

72. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, John Kondrath, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

73. It Is Further Ordered, Adjudged and Decreed that the said respondent, Herman Latz, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

74. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Herman Latz, and him safely keep in the County Jail of the County of Lake, State of Illinois for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

75. It Is Further Ordered, Adjudged and Decreed that the said respondent, Frank Latz, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

76. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the



said respondent, Frank Latz, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

77. It Is Further Ordered, Adjudged and Decreed that the said respondent, Elsworth Peters, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

78. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Elsworth Peters, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

79. It Is Further Ordered, Adjudged and Decreed that the said respondent, Joseph Richveis, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

80. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Joseph Richveis, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars

(\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

81. It Is Further Ordered, Adjudged and Decreed that the said respondent, Fred Yaeger, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

82. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Fred Yaeger, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

83. It Is Further Ordered, Adjudged and Decreed that the said respondent, Frank Zelenik, pay a fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and twenty (120) days, unless sooner discharged in due course of law.

84. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Frank Zelenik, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and twenty (120) days and the payment by said respondent of the said fine of One Hundred Fifty Dollars (\$150.00) to the Clerk of this Court, unless sooner discharged in due course of law.

85. It Is Further Ordered, Adjudged and Decreed that the said respondent, Charles Warner, pay a fine of Three



Hundred Dollars (\$300.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the 357 County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and eighty (180) days, unless sooner discharged in due course of law.

86. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Charles Warner, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and eighty (180) days and the payment by said respondent of the said fine of Three Hundred Dollars (\$300.00) to the Clerk of this Court, unless sooner discharged in due course of law.

87. It Is Further Ordered, Adjudged and Decreed that the said respondent, Carl Swanson, pay a fine of Three Hundred Dollars (\$300.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of one hundred and eighty (180) days, unless sooner discharged in due course of law.

88. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Carl Swanson, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and eighty (180) days and the payment by said respondent of the said fine of Three Hundred Dollars 358 (\$300.00) to the Clerk of this Court, unless sooner discharged in due course of law.

89. It Is Further Ordered, Adjudged and Decreed that the said respondent, Oakley Mills, pay a fine of Five Hundred Dollars (\$500.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for

the period of one hundred and eighty (180) days, unless sooner discharged in due course of law.

90. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Oakley Mills, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of one hundred and eighty (180) days and the payment by said respondent of the said fine of Five Hundred Dollars (\$500.00) to the Clerk of this Court, unless sooner discharged in due course of law.

91. It Is Further Ordered, Adjudged and Decreed that the said respondent, Meyer Adelman, pay a fine of One Thousand Dollars (\$1,000.00) to the Clerk of this Court and, in addition thereto, he be and is hereby committed to the County Jail of the County of Lake, State of Illinois, there to remain charged with contempt, as heretofore found by this Court, for the period of two hundred and forty (240) days, unless sooner discharged in due course of law.

92. It Is Further Ordered, Adjudged and Decreed that the Sheriff in and for said County of Lake and State of Illinois be, and he is hereby commanded, in the name and by 359 virtue of the authority of the People of the State of Illinois, to carry forthwith this sentence into effect by seizing the body of the said respondent, Meyer Adelman, and him safely keep in the County Jail of the County of Lake, State of Illinois, for and until the expiration of the period of two hundred and forty (240) days and the payment by said respondent of the said fine of One Thousand Dollars (\$1,000.00) to the Clerk of this Court, unless sooner discharged in due course of law.

93. It Is Further Ordered, Adjudged and Decreed that the hearings as to the remaining respondents, as hereinafter named, shall stand continued until the further order of the Court: A. Anderson, Nick Benkovich, Andrew Bereczsky, Louis Bereczsky, Wallace Bourdeau, Wilbert Braden, Howard Bond, George Cerk, Ted Christiansen, Milton Coon, Leo Daluga, George Devine, Cornelius Dugan, Charles Fulkerson, Sr., John Germer, Fred Hensley, Eugene Hendee, Chester Hook, Gilbert Haney, Ralph Hoffman, A. Henning, Victor Hertel, Eino Johnson, Oscar Johnson, Elmer Luke, Steve

Luke, Steve Luczo, Fred Karpinski, Frank Moxey, Frank Nickoley, Theodore Ohlson, Victor Oliver, John Plewa, Frank Ptak, Joe Petraitis, Casimir Petkus, John Praski, Reginald Ross, Ed. Ruck, Frank Renek, Eric Schultz, Alf Simonson, Arthur Sladek, Milton Sladek, George Smith, Ed. Schuman, Frank Scheuer, Lee Stanley, William VanTreek, Victor Weatherhead, Paul Wells, Allen White, Oscar Westerlund and Mike Zelenik.

Entered at Waukegan, Illinois, this 8th day of June, 1937.

Theodore Forby,  
*Judge.*

Endorsed: "Filed Jun. 8 '37 L. J. Wilmot, Clerk."

360 State of Illinois }  
Lake County } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete Copy of the Judgment Order filed and entered of record in said Court on the 8th day of June A. D. 1937 in a certain cause now pending in said Court on the Chancery Side thereof wherein Fansteel Metallurgical Corporation, a New York Corporation, is Plaintiff and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al. are Defendants, Gen. No. 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County, this 16th day of June, A. D. 1937.

L. J. Wilmot,  
*Clerk.*

(Seal)

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**RESPONDENT EXHIBIT NO. 2.**

6/10/37.

**IN THE CIRCUIT COURT OF LAKE COUNTY.**

\* \* (Caption—37551) \* \* \*

**FINAL DECREE.**

This day comes the Plaintiff, Fansteel Metallurgical Corporation, a New York corporation, by Levinson Becker Peebles & Swiren and Sidney H. Block, its solicitors, and come also the Defendants, Lodge 66 of The Amalgamated Association of Iron, Steel and Tin Workers of North America, the Steel Workers Organizing Committee of the Committee for Industrial Organization, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark,

William Van Treek, Alexander Bunton, Stanley Grum, 362 Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer and John Taylor, by Paul P. Glaser and Lester F. Collins, their solicitors;

And It Appearing to the Court and the Court Finding:

1. That on February 18, 1937, the Plaintiff, a New York corporation, having its place of business in North Chicago, County of Lake and State of Illinois, filed its verified Bill of Complaint alleging that the Defendants, Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, The Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary

Roe, et al., their members and agents, had unlawfully seized, taken and then held possession of the plants and properties of the Plaintiff located at North Chicago, Lake County, Illinois, and that said Defendants had unlawfully and with 363 force and arms evicted from the said premises certain of the officers, agents and lawful representatives of the Plaintiff and had barricaded themselves within certain of the plants and buildings on the Plaintiff's premises and had refused admittance to the officers, employees and legal representatives of the Plaintiff; that the aforesaid unlawful action had been taken in pursuance of an unlawful and malicious conspiracy between the Defendants for the malevolent purpose of injuring and destroying the Plaintiff's business; that those Defendants who had barricaded themselves within said properties were the former employees of the Plaintiff who had been discharged subsequent to their forcible and unlawful seizure of the plant and that they had seized and were withholding possession of the plant from the lawful owners without justification in law and had refused to comply with the request of the Plaintiff that it be restored to the possession of its properties.

2. That the Defendants, Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, The Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick 364 Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer and John Taylor did, on the 18th day of February, 1937, file their appearance in this cause by Joseph M. Jacobs and submitted to the jurisdiction of this Court.

3. That thereafter, on February 18, 1937, an order was entered by this Court, after a hearing upon the aforesaid verified Bill of Complaint, ordering and directing the Defendants, their members and agents, to immediately cease and desist from occupying the plants or properties of the Plaintiff and from interfering with the Plaintiff's use and possession of such plants and properties; to immediately surrender to the



Plaintiff all goods, wares, merchandise, equipment and other property of the Plaintiff then held or in the possession of the Defendants; to vacate said premises then held and occupied by them without damage or injury to said premises or properties or any of the machinery or equipment or appurtenances therein contained; to cease and desist from unlawfully interfering with any of the plants, properties, machinery and equipment of the Plaintiff and from continuing to trespass upon any of the plants, properties, machinery and equipment of the Plaintiff; to cease, desist and refrain from in any manner unlawfully interfering with the free access of the officers, agents and employees of the Plaintiff to the Plaintiff's property and to desist and refrain from in any manner unlawfully interfering with the operation of the plants or properties of the Plaintiff. Said order further provided that the aforesaid Injunctional Order should become effective immediately upon the approval by the Court and the filing of a penal bond 365 in the sum of Twenty-Five Hundred Dollars (\$2500.00) as good and sufficient security; that such a bond was approved by the Court and filed herein on the 18th day of February, 1937, and that thereupon said Injunctional Order was in full force and effect and has so continued until the present time and is still in force and effect.

4. That thereafter, on the 28th day of February, 1937, the Plaintiff filed a Petition and Supplemental Complaint, supported by affidavits and documentary proof, praying for additional and supplemental relief, which was granted by this Court in an Injunctional Order entered on March 1, 1937.

5. That each of said Defendants have heretofore filed answers to the Complaint, the Petition and Supplemental Complaint and the various Rules to Show Cause, which have been entered herein.

And This Cause Coming on to Be Heard upon the Complaint and the Petition and Supplemental Complaint herein of Fansteel Metallurgical Corporation, and the joint and several answers thereto of each and all of the Defendants herein, and the proofs, oral, documentary and written, heard and received in open Court upon the hearing of said cause, and after arguments by counsel for the respective parties, and the Court being fully advised in the premises,

Doth Further Find:

366 6. This Court has jurisdiction of the subject matter of this cause and of all of the parties hereto.

7. The Plaintiff is a corporation duly organized and exist-



ing under the laws of the State of New York and authorized and licensed to do business in the State of Illinois; that it is engaged, in the State of Illinois, in the refinement, manufacture and sale of rare metals and chemical compounds of metals.

8. The principal plant and offices of the Plaintiff are located at North Chicago, Illinois, in Lake County, occupying seven and one-half acres, extending along 22nd Street between the Chicago, North Shore & Milwaukee Railroad tracks and Commonwealth Avenue.

9. During the period from on or about September 10, 1936 to the date of the entry of this Decree, said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, by and through its agents, servants and members, continued a systematic campaign of coercion and intimidation directed against the employees of the Plaintiff in an effort to compel them to join and become members of the said Lodge 66; that the servants, agents and members of said Lodge 66 individually and in groups made repeated calls at the homes of the employees of the Plaintiff and by threats of physical violence, reprisals and social ostracism sought 367 to compel them to become members of the said Lodge 66; said Lodge 66 represented to the employees of the Plaintiff that unless they joined the union forthwith they would, upon the completion of the union organization, either be ousted from their jobs or subjected to large fines or initiation fees in amounts varying from \$25.00 to \$150.00 for each employee as a condition of being allowed to continue in the employ of Plaintiff.

10. At or about 2:30 o'clock in the afternoon on February 17, 1937, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treck, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christian, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, Wilbert Braden, Howard Bond, Geo. Kallie, Merritt Pratt, Nick Benkovich, Lee Stanley, Ralph Huffman, Oscar Westerlund, Albert Henning, G. Divine, L. Bereszky, Frank Musech, Alvan Romppaine, Ray Grossenheider, Ed. Kaucic, Milton Coon, Victor Weatherhead, George Cerk, Her-

man Latz, Nate Mogel, Art Sladek, Frank Renek, Joseph Chudy, Pete Skarbalus, Mike Zelenik, Andrew Rode, Joe Petraitis, Chester Hood, Frank Moxey, Cornelius Dugan, Theodore Ohlson, Casmir Petkus, Paul Wells, Gilbert Haney, 368 Eino Johnson, Alf. Simonson, Tony Kancilja, Wallace Bourdeau, Fred Kaprinski, Alan White, Frank Ptak, Andrew Bereczky, Eric Shultz, John Plewa, Anton Nagode, Ed Brunke, Luther Small, Frank Nickoley, Frank Scheuer, Leo Daluga, Ed. Schuman, Clarence Dreyer, Elmer Luke, Victor Hertel, John Praski, V. Oliver, Charles Fulkerson, Gus Ganelakes, Steve Luczo, Arvo Romppaine, Joe Richveis, John Cudith, Jr., Frank Furlan, Phil Graimer, John Grom, Joe Lima, Paul Makovec, George Mondro, George Smith, Joseph Aigner, John Jackaway, Eric Lindberg, Stanley Janas, Chester Janas, Frank Ludlow, Frank Osenek, Milton Sladek, Orlin Swanson, Charles Smith and Stanley Verenski, acting in pursuance of a conspiracy between themselves, certain other members of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, Meyer Adelman, the regional director of the Steel Workers Organizing Committee of the Committee for Industrial Organization, and Van A. Bittner, an officer and agent of the said Steel Workers Organizing Committee of the Committee for Industrial Organization, forcibly seized and possessed Buildings Nos. 3 and 5 of the Plaintiff located as aforesaid at North Chicago, Illinois. The said Defendants forcibly evicted from each of said buildings certain of the officers, agents and representatives of the Plaintiff and those employees who desired to continue with their work, and barricaded themselves within the buildings.

369 11. Thereafter, at or about 4:00 o'clock in the afternoon on February 17, 1937, the Plaintiff called upon the Defendants and all other persons who had so forcibly seized and occupied Plaintiff's premises, to evacuate the premises and the Defendants and the other persons in possession of the Plaintiff's plants having refused this demand, Plaintiff thereupon discharged from its employ, for such unlawful and violent seizure of the Plaintiff's property and plants, each of the Defendants and each of the other persons in possession of Plaintiff's premises.

12. Thereafter, from approximately 2:30 o'clock in the afternoon on February 17, 1937, the said Defendants, together with Wilbert Braden, Howard Bond, Geo. Kallie, Merritt Pratt, Nick Benkovich, Lee Stanley, Ralph Huffman, Oscar

Westerlund, Albert Henning, G. Divine, L. Bereszky, Frank Musech, Alvan Romppaine, Ray Grossenheider, Ed. Kaucic, Milton Coon, Victor Weatherhead, George Cerck, Herman Latz, Nate Mogal, Art Sladek, Frank Renek, Joseph Chudy, Pete Skarbalus, Mike Zelenik, Andrew Rode, Joe Petraitis, Chester Hood, Frank Moxey, Cornelius Dugan, Theodore Ohlson, Casmir Petkus, Paul Wells, Gilbert Haney, Eino Johnson, Alf. Simonson, Tony Kancilja, Wallace Bourdeau, Fred Kaprinski, Alan White, Frank Ptak, Andrew Bereczky, Eric Shultz, John Plewa, Anton Nagode, Ed Brunke, Luther Small, Frank Nickoley, Frank Scheuer, Leo Daluga, Ed. Schu-  
370 man, Clarence Dreyer, Elmer Luke, Victor Hertel, John Praski, V. Oliver, Charles Fulkerson, Gus Genelakes, Steve Luczo, Arvo Romppaine, Joe Richveis, John Cudith, Jr., Frank Furlan, Phil Graimer, John Grom, Joe Lima, Paul Makovec, George Mondro, George Smith, Joseph Aigner, John Jackaway, Eric Lindberg, Stanley Janas, Chester Janas, Frank Ludlow, Frank Osenek, Milton Sladek, Orlin Swanson, Charles Smith and Stanley Verenski, who were also members, servants or agents of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, continuously and unlawfully kept and retained possession of said Buildings Nos. 3 and 5 until at or about the hour of 6:00 o'clock in the forenoon on February 26, 1937.

13. Pursuant to the Injunctional Order entered as aforesaid on February 18, 1937, a Writ of Injunction duly issued from and under the seal of this Court and, as appears from the return of said Writ, on the 18th day of February, 1937, at approximately 1:00 o'clock in the afternoon, Lawrence A. Doolittle, the duly constituted Sheriff of Lake County, Illinois, served the Writ of Injunction upon all of the Defendants and their members and agents who were occupying and in possession of the plant and properties of the Plaintiff. Entrance to the said Buildings Nos. 3 and 5 occupied by the said persons was denied and refused to the Sheriff who thereupon made service of the Writ of Injunction by reading the same to the said persons in a loud voice through the open windows, by delivering a copy thereof to Carl Swanson, one of the

371 Defendants herein and the Secretary and Treasurer of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and by distributing approximately 25 copies of the said Writ of Injunction to various individuals Defendants, members of said Lodge 66, and their agents who were then in occupation of the said prem-

ises, and by posting in conspicuous places upon the properties and plant of the Plaintiff copies of the aforesaid Writ of Injunction.

14. On receiving service of the Writ of Injunction, said Carl Swanson, speaking for himself and said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and the other persons occupying the properties and plant of the Plaintiff, announced and stated to the Sheriff that they would refuse and continue to refuse to comply with the Writ of Injunction and the order of this Court and that they would not vacate or remove from the properties and plant of the Plaintiff.

15. That each and all of the Defendants and each and all of the persons listed and named in Paragraphs 10 and 12 hereof as having unlawfully occupied and retained possession of the Plaintiff's plants and properties, received full knowledge of the entry by this Court of the aforesaid Order and received full knowledge of the Writ of Injunction issued pursuant thereto, from and under the seal of this Court, and of the terms and provisions thereof, through the aforesaid service of said Writ of Injunction by the Sheriff of Lake County, Illinois, in the manner aforesaid. Notwithstanding such full

knowledge of the entry of the said Order and the issuance 372 of the Writ of Injunction, each of the Defendants and each of the persons listed in Paragraphs 10 and 12 hereof deliberately and knowingly violated the provisions of the said Injunctional Order and Writ of Injunction.

16. That thereafter, on the aforesaid 18th day of February, 1937, the Plaintiff filed in this cause a verified petition for the attachment of certain of the aforesaid persons to show cause why they should not be punished for contempt.

17. That thereafter, on the said 18th day of February, 1937, an order was entered by this Court directing and commanding the Sheriff of Lake County, Illinois, and each and all of his duly constituted deputies, to forthwith seize and attach the bodies of all persons occupying the properties or plant of the Plaintiff at North Chicago, Illinois, contrary to, and in violation of, the aforesaid Injunctional Order, and to forthwith bring said persons before the bar of this Court to show cause, if any they had, why they should not be held in contempt of this Court for violation of said Injunctional Order and Writ of Injunction issued pursuant thereto.

18. That pursuant to said Order of this Court, a Writ of Attachment duly issued from and under the seal of this Court

on the 18th day of February, 1937, ordering and directing the Sheriff and his deputies to bring the bodies of all persons occupying the properties and plant of the Plaintiff at North Chicago, Illinois, in violation of the aforesaid Injunctional Order of this Court and the Writ of Injunction issued pursuant thereto, before the bar of this Court to show cause, if any they had, why they should not be adjudged in contempt of this Court for the violation of said Injunctional Order and the Writ of Injunction issued pursuant thereto.

19. That on the morning of February 19, 1937, Lawrence A. Doolittle, the duly constituted and acting Sheriff of Lake County, Illinois, proceeded to the aforesaid premises with the aforesaid Writ of Attachment for the purpose of executing said Writ by seizing and attaching the bodies of all those persons occupying and holding the premises of the Plaintiff in violation of the aforesaid Injunctional Order of this Court and the Writ of Injunction issued pursuant thereto, and bringing the same before the bar of this Court; that the said Sheriff was accompanied by approximately 125 deputies; that upon reaching the aforesaid premises, the said sheriff approached the buildings occupied by the persons named herein and demanded entrance to said buildings; that the Defendants denied the Sheriff and his deputies entrance to said buildings and that thereupon the Sheriff read, in a loud voice, the aforesaid Writ of Attachment to the Defendants through the open windows of the buildings occupied by them, and demanded that they forthwith leave said buildings and submit to arrest; that the Defendants refused to vacate said buildings or to submit to arrest by the Sheriff and thereupon closed said windows in the face of said Sheriff and barricaded themselves within said buildings; that immediately thereafter, the Sheriff and his deputies attempted to gain entrance to said buildings and to execute said Writ of Attachment by arresting the persons within said buildings; that thereupon, the persons hereinbefore named hurled acid, bottles, pieces of metal, rocks and other missiles at the Sheriff and his deputies and contrived to turn fire extinguishers and fire hose upon the Sheriff and his deputies and threatened the Sheriff and his deputies with bodily harm and violence if they continued their efforts to execute the aforesaid Writ of Injunction and Writ of Attachment; that the aforesaid Defendants and persons herein named used, toward the Sheriff and his deputies, vile, indecent and profane language and made violent and abusive threats, all of which tended to bring this Court and



the enforcement officers of this County into disrepute and constituted a defiance of this Court and its orders and of the duly constituted authorities engaged in the enforcement of such orders; that because of the aforesaid malicious acts of the Defendants herein named in hurling acid, bottles and other missiles upon the Sheriff and his deputies, the latter were compelled to resort to the use of tear gas in an effort to carry out the orders of this Court; that the aforesaid Defendants continued to repel, with force and violence and the throwing of missiles, all efforts of the Sheriff and his deputies to execute the orders of this Court for a period of more than two hours, and that as a consequence of such resistance and violence, the Sheriff and his deputies were compelled to abandon their efforts to execute the aforesaid orders of this Court.

20. That from said 19th day of February, 1937, until the 26th day of February, 1937, the aforesaid Defendants, 375 or certain of them, continuously remained in the aforesaid premises in violation of the Injunctional Order, the Writ of Injunction issued pursuant thereto and the Writ of Attachment duly issued out of this Court; that during said time, said Defendants continued to refuse to evacuate said building and repeatedly stated that they would remain in possession of the aforesaid premises until such time as the Plaintiff met their demands regardless of the orders of this Court or the efforts of the duly constituted authorities of Lake County to carry out said orders; that during said period, said Meyer Adelman and one Oakley Mills, who is a member and agent of the Defendant, Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and who had previously and during said period continued to maliciously, wilfully and unlawfully conspire, confederate and combine with the aforesaid Defendants to procure the forceful, violent and unlawful seizure of the Plaintiff's plants and properties, and to interfere with and prevent the Plaintiff from operating and continuing its regular and normal business operations, and to prevent, bar and interfere with the free and normal access of the Plaintiff, its officers and employees, to the plant and properties of the Plaintiff, and to coerce and intimidate by threats and other unlawful means various employees of the Plaintiff in order to compel them to join and pay dues to Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of



North America, appeared on numerous occasions on the property contiguous and adjacent to the buildings occupied by the aforesaid Defendants, and then and there encouraged, counseled and advised the aforesaid Defendants to remain in possession of the aforesaid premises and to repulse all 376 efforts of the duly constituted authorities of Lake County to evacuate said premises, all in violation of the Injunctional Order of this Court, the Writ of Injunction issued pursuant thereto and the aforesaid Writ of Attachment; that the said Meyer Adelman and Oakley Mills assisted in the procuring and delivery of food, bedding, stoves and other supplies to the aforesaid Defendants.

21. That on the 26th day of February, 1937, the Sheriff of Lake County, accompanied by approximately 50 deputies again attempted to execute the aforesaid Writ of Injunction and Writ of Attachment; that when the Sheriff and his deputies approached the buildings for the purpose of executing said Writs, the aforementioned Defendants, or certain of them, again hurled acid, bottles, rocks, pieces of metal and other dangerous and death-dealing missiles upon the Sheriff and his deputies from the windows of the building occupied by the aforesaid Defendants; that one of the deputies received a dangerous wound from one of the missiles so thrown, and numerous other deputies received divers wounds, bruises and abrasions from the missiles thrown as aforesaid; that the persons and clothing of some of the deputies were severely burned by acid thrown by the aforesaid Defendants, or certain of them, and that the lives of the Sheriff and all of his deputies were endangered by the aforesaid acts of violence of the aforesaid Defendants; that because of the aforesaid actions of the Defendants, the Sheriff and his deputies were again compelled to use tear and emetic gas to evacuate said buildings and that, after a period of some two hours, during which the aforementioned Defendants continued to 377 repulse the Sheriff and his deputies in their efforts to execute the orders of this Court, the Defendants deserted and evacuated said buildings; that during the efforts of the Sheriff and his deputies to carry out the orders of this Court on the 19th day of February, 1937, and again on the 26th day of February, 1937, the said Meyer Adelman and Oakley Mills appeared outside the fence of the Plaintiff's property at a point contiguous and adjacent to the buildings occupied by the aforesaid Defendants, and counseled the aforesaid

Defendants to continue their resistance to the Sheriff and his deputies and commanded, ordered and directed the Sheriff and his deputies to desist from their efforts to carry out the orders of this Court and threatened the Sheriff and his deputies with vile, indecent, opprobrious and abusive language, and that said Oakley Mills repeatedly threatened personal violence against the persons of certain deputy sheriffs then engaged in carrying out the orders of this Court, all of which tended to bring this Court and the enforcement officers of Lake County into disrepute.

22. That the said Meyer Adelman was present in open Court when the aforesaid Injunctional Order was announced and entered by this Court, and that both the said Meyer Adelman and Oakley Mills have heretofore had full knowledge and notice of the entry of said Injunctional Order and the issuance of said Writs of Injunction and Attachment; that the said Meyer Adelman and Oakley Mills, notwithstanding such knowledge and notice of said Injunctional Order and Writ of Injunction and Writ of Attachment, for 378 the purpose of irreparably injuring and destroying the business of the Plaintiff and for the purpose of bringing this Court and the enforcement officers of Lake County into disrepute, advised, counseled and directed the aforementioned Defendants to disregard and violate the aforesaid Injunctional Order and the Writs of Injunction and Attachment issued by this Court and to continue their unlawful acts and conduct in contempt of this Court and its order and Writs of Injunction and Attachment, and that the said Meyer Adelman and Oakley Mills repeatedly encouraged, aided, abetted and facilitated the unlawful retention of the plant and properties of the Plaintiff, in violation and disregard of the Injunctional Order and Writs of Injunction and Attachment issued out of this Court, by the aforementioned Defendants by supervising and directing their conduct and by furnishing food, supplies and equipment to said Defendants while said Defendants continued in the unlawful possession of Plaintiff's property.

23. During the period in which the said Buildings Nos. 3 and 5 were forcibly occupied in violation of the Writ of Injunction of this Court, the following persons, among others, left said buildings voluntarily or escaped therefrom: Otto Latz, Ray Grossenheider, Geo. Cerk, Allen White, Fred Ludlow, Howard Bond, Gilbert Haney, Milton Coon, Oscar West-

erlund, Victor Oliver, Frank Osenek, Albert Henning, Fred Hensley, Eric Schultz, John Praski, Olaf Simonson, Chester Hook, Erick Lindberg and John Plewa.

379 24. Thereafter, the Defendants and their members, agents and sympathizers, conspired and confederated together to interfere with the Plaintiff, its officers, employees and duly authorized representatives, in their conduct, control and direction of the Plaintiff's business and the use and occupation of the Plaintiff's plants and properties., In pursuance of such conspiracy, the Defendants caused large numbers of people, aggregating frequently as many as three thousand, to mass and congregate from day to day at the gates leading into, and alongside the fence surrounding, the Plaintiff's plant at North Chicago, Illinois, for the purpose of obstructing, hindering, interfering with and disturbing the Plaintiff and its officers, employees, agents and duly authorized representatives in the conduct, direction and control of the Plaintiff's business. The mobs which were so congregated injured and disarmed deputies stationed by the Sheriff of Lake County, Illinois at the premises to preserve and protect the property of the Plaintiff, and engaged in mass picketing for the purpose of coercing, intimidating and preventing the employees, officers, agents and duly authorized representatives of the Plaintiff from continuing in their employment and discharging and carrying out the duties of their employment.

25. For more than eight days prior to March 1, 1937, the Defendants and their members, agents and sympathizers, gathered and congregated in large numbers upon or  
380 about the sidewalks, streets, private streets, alleys or approaches adjoining and adjacent to the premises occupied by the Plaintiff and the fences surrounding the same and the gates entrances and approaches thereto, and engaged in the following unlawful activities, to-wit: (a) intimidating, annoying and injuring the officers, employees, agents and representatives of the Plaintiff and obstructing, hindering, interfering and disturbing them in the rendition of their services and the discharge of their duties; (b) intimidating, threatening, coercing and unlawfully persuading Plaintiff's officers, employees, agents and representatives to discontinue their employment and cease carrying on their duties and employment; (c) engaging in mass picketing at the places aforesaid and along the ways traveled by the employees to and from work; and (d) by threats, jeers, violent and abusive

language, violence and threats of violence, taunts, entreaties and malicious arguments and other similar acts, preventing or attempting to prevent the officers, agents, representatives and other duly authorized persons of the Plaintiff from entering upon or continuing in their duties as such officers, employees, representatives or agents.

26. Thereafter, upon the verified Petition and Supplemental Complaint of the Plaintiff, this Court entered an Injunctive Order on the 1st day of March, 1937, ordering and directing that Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, The Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred 381 Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary Roe, et al., and all of their officers, attorneys, servants, agents, associates, members and employees and all persons acting in aid of or in conjunction or sympathy with them, do absolutely desist and refrain from engaging in mass picketing and other unlawful activities specified in the Injunctive Order of this Court.

27. That thereafter, notwithstanding the said Injunctive Order of this Court, the Defendants, their members, servants and agents, continued a systematical campaign of coercion and harassment of the employees of the Plaintiff; visited such employees at their homes and threatened them with physical violence if they continued to work for the Plaintiff; in many instances hurled bricks and other missiles through the windows of the homes of the employees of the Plaintiff and otherwise sought, illegally and unlawfully, in violation of said Injunctive Order, to prevent the employees of the Plaintiff from continuing in their employment and discharging their duties as employees, agents and representatives of the Plaintiff.

382 28. The Defendants and their members, agents and sympathizers have further threatened and will, unless they are permanently restrained by this Court, continue their

intimidation and coercion of the employees, agents and representatives of the Plaintiff by accosting, obstructing and stopping them and calling upon them at their homes and elsewhere for the purpose of maliciously intimidating, threatening, coercing and unlawfully persuading them to cease and refuse to perform their duties as employees, agents and representatives of the Plaintiff and to join and become a member of, and pay dues to, said Defendant, Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

29. Plaintiff would have sustained irreparable injury and damage had not this Court entered its temporary Injunctive Order on February 18, 1937 and its further Injunctive Order on March 1, 1937; Plaintiff will sustain irreparable damage and injury unless the provisions of both of said Injunctive Orders are made permanent by this Decree.

It Is Therefore Ordered, Adjudged and Decreed that Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, The Steel Workers Organizing Committee of the Committee for Industrial Organization, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck,

Fred Hensley, Harold Dreyer (sometimes known as Gus 383 Dreyer), Charles Swanson, Charles Warner, Angelo

Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary Roe, et al, and the persons before mentioned, and each and every one of them, and all of their officers, attorneys, servants, agents, associates, members and employees, and all persons acting in aid of or in conjunction or sympathy with them be, and they are hereby permanently and perpetually restrained and enjoined from:

(1) Occupying or possessing any portion of the plants or properties of the Plaintiff located at North Chicago, Illinois, and from interfering with the Plaintiff's use and possession of all such plants and properties;

(2) Interfering with any of the plants, properties, machinery or equipment of the Plaintiff or the Plaintiff's proper use and enjoyment thereof, or from trespassing upon any of

the plants, property, machinery or equipment of the Plaintiff;

(3) Congregating upon or about the sidewalks, streets, private streets, alleys or approaches adjoining and adjacent to the premises occupied by the Plaintiff, or the fences surrounding the same, for the purpose of intimidating, annoying or injuring the officers, agents, representatives or employees of the Plaintiff, or for the purpose of unlawfully obstructing, hindering, interfering with or disturbing them, or any of them, in rendering their services and discharging their duties;

(4) Engaging, directing or procuring others to engage in the practice commonly known as picketing, that is to say, assembling or causing to be assembled numbers of members of said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, or other Defendants or others in sympathy with them, in the vicinity where the employees of the Plaintiff or any of them are required to work and perform their duties, at or near the places of ingress or egress or along the ways traveled by said employees thereto or therefrom, or by threats, jeers, violent or abusive language, violence or threats of violence, taunts, or by any similar acts preventing or attempting to prevent any of the employees, agents, representatives or other duly authorized persons of the Plaintiff from entering upon, or continuing in, their duties as such employees, representatives or agents;

(5) Either singly or in combination with others collecting in or about the approaches to the plants, factories and places of business of the Plaintiff for the purpose of picketing or patrolling or guarding the streets, alleys, passageways, entrances, gates, approaches or places of business of the Plaintiff for the purpose of intimidating, threatening, coercing or unlawfully persuading any of the Plaintiff's officers, representatives, agents or employees not to enter upon or to cease carrying on their duties and employment, or for the purpose of intimidating, threatening, coercing or unlawfully persuading or preventing persons seeking employment from making application therefor or going to or from the offices, plant or premises of the Plaintiff;

(6) Either singly or in combination with others collecting in or about the approaches to the plants, factories and places of business of the Plaintiff for the purpose of picketing or



patrolling or guarding the streets, alleys, passageways, entrances, gates, approaches or places of business of the Plaintiff for the malevolent purpose of injuring the Plaintiff or injuring or destroying the Plaintiff's business or unlawfully interfering with its conduct, maintenance or operation;

(7) Either singly or in combination with others calling upon, or accosting, obstructing or stopping any of the officers, employees, agents or representatives of the Plaintiff or persons seeking employment with the Plaintiff at their homes 386 or anywhere else for the purpose of intimidating, threatening, coercing or unlawfully persuading them or any of them to cease or refuse to perform his or their duties as employee, officer or representative of the Plaintiff, or to leave or not to enter the employment or service of the Plaintiff, or to join or become a member of any of the defendant organizations;

(8) From entering or going upon the premises of the Plaintiff without the express consent or authorization of the Plaintiff;

provided, however, that nothing contained in this Final Decree shall be construed to prohibit the Defendants from posting one or two pickets or representatives at or near each point of ingress or egress to and from the plant of the Plaintiff or at any other points in Lake County, Illinois, not less than 300 feet apart, along the routes followed by the employees of the Plaintiff in going to and from their homes and to and from the place of business of the Plaintiff, with the express right to such pickets or representatives of observation, communication and persuasion either while stopping or while walking up and down, but such representatives and pickets are especially admonished that their communications, arguments and appeals shall not be abusive, malicious or threatening and that they shall not, in their efforts of communication or per- 387 suasion, follow or obstruct any unwilling listener.

It Is Further Ordered, Adjudged and Decreed that nothing contained in this Final Decree shall affect the validity of the Injunctional Order heretofore entered in this cause on February 18, 1937 and the Injunctional Order entered herein on March 1, 1937, and nothing herein contained shall affect any proceeding which has heretofore been instituted or may hereafter be instituted for the purpose of punishing, for contempt of this Court, any person or persons who shall have violated the provisions of either the Injunctional Order en-

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*Respondent's Exhibit No. 5.*

tered on February 18, 1937 or the Injunctional Order entered on March 1, 1937.

Entered at Waukegan, Illinois, this 9th day of June, A. D. 1937.

Theodore Forby,  
*Judge.*

Endorsed: "Filed Jun-9 '37. L. J. Wilmot, Clerk."

388 State of Illinois }  
Lake County } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete copy of Final Decree filed and entered of record in said Court on the 9th day of June, A. D. 1937 in a certain cause now pending in said Court on the Chancery side thereof wherein Fansteel Metallurgical Corporation, a New York Corporation is Plaintiff and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al. are Defendants, General Number 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County, this 9th day of June, A. D. 1937.

(Seal)

L. J. Wilmot,  
*Clerk.*

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RESPONDENT EXHIBIT NO. 5.

6/25/37

Fansteel Metallurgical Corporation  
Identification Card

Clock No. .... Dept. 2

Present this card to watchman at main gate.

George Mondro  
Signature  
A. J. Anselm,  
*Supt.*

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RESPONDENT EXHIBIT NO. 6.

6/25/37

Fansteel Metallurgical Corporation  
Identification Card

Clock No. \_\_\_\_\_ Dept. 3

Present this card to watchman at main gate.

Frances Fellens

Signature

A. J. Anselm,

Supt.

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RESPONDENT EXHIBIT NO. 7.

6/21/37

BEFORE THE NATIONAL LABOR RELATIONS BOARD.

\* \* (Caption—XIII-C-80) \* \*

STIPULATION.

It Is Hereby Stipulated and Agreed by and between Counsel for National Labor Relations Board, Counsel for the Respondents, Fansteel Metallurgical Corporation, and Counsel for Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, a party in the above entitled proceeding, as follows:

1. Fansteel Metallurgical Corporation is a New York Corporation, and has its principal place of business in the City of North Chicago, Lake County, Illinois. The Company and its predecessors have been in business for over thirty (30) years, and prior to July of 1936 the Company had never experienced any labor troubles or labor disputes of any kind. Its property in North Chicago consists of approximately seven and one-half ( $7\frac{1}{2}$ ) acres of ground and fifteen (15) buildings. The Company is engaged in the business of manufacturing rare metals and fabricating products therefrom.

392 Robert H. Aitchison is and has been the president of the Company since May 1936, and prior to that time was vice-president and general manager. Mr. A. J. Anselm is and has been plant superintendent since September 8, 1936, and served the Company in various capacities, including that of plant superintendent, since February 1, 1919. Mr. Luther

Henry is assistant plant superintendent and has been an employee of the Company since June 16, 1916. Practically all of the production work of the Company is carried on in Buildings 3 and 5 and the shipping and receiving departments and some of the stock rooms are located in buildings 3 and 5. These two buildings are the key buildings of the entire plant and the cessation of operations in those buildings automatically closes the entire plant. Without the use of buildings 3 and 5 the Company is totally unable to carry on the business of extracting rare metals from ores, to fabricate finished products, to make shipments of products already finished, to receive shipment of raw materials, or to carry on any of the normal business of the Company.

2. About 2:30 o'clock in the afternoon of February 17, 1937, certain of the employees of the company ceased their work, took possession of buildings 3 and 5, and ordered and compelled the foremen and certain of the other employees, including the women employees, to leave those buildings, all without previous notice or warning to the company and without the permission or consent of the Company, or any of its officers. Thereafter, on the same day, the doors of the said

buildings were closed and barricaded by the said persons 393 from within and from that time until the morning of February 26, 1937, the possession of buildings 3 and 5 was withheld from the company by the said persons, and by reason thereof all normal operations usually carried on in buildings 3 and 5 ceased during the said period resulting in the closing of the entire plant of the company and the complete stoppage of all business operations of the company.

3. At the time of the seizure of the plant, Mr. R. H. Aitchison was in Chicago. Upon being advised by A. J. Anselm, plant superintendent, he immediately returned to North Chicago with Mr. Max Swiren, a member of the firm of Levinson, Becker, Peebles & Swiren, general counsel for the company.

4. About 6:00 o'clock in the afternoon of February 17, 1937, upon the orders of Robert H. Aitchison, president of the company, Max Swiren and A. J. Anselm accompanied by Chief of Police Novak and Deputy Sheriff Ebler, went to building 3 and after announcing their identity and authority sought entrance to the building. Upon the refusal of those within the building to admit them, Mr. Swiren, acting upon orders of Mr. Aitchison, passed into the building a written notice stating that the company would appear on the following morning before Ralph J. Dady, presiding Judge of 394 the Circuit Court of Lake County, Illinois, and institute

proceedings with a view to obtaining an injunction directing the men to leave the building. Thereupon, Mr. Swiren, acting upon the orders of Mr. Aitchison, requested the men to leave the building, and upon their refusal so to do announced that every man remaining in the building was discharged for the violent seizure and retention of the buildings. Thereupon, Mr. Swiren, Mr. Anselm, Chief of Police Novak and Deputy Sheriff Ebler proceeded to building 5 and went through the same procedure, made the same request and announcement with the same results, and upon the refusal of the men within building 5 to leave the building announced that every man remaining in the building was thereupon discharged for the violent seizure and retention of the building.

5. At the time of the discharge of the men in buildings 3 and 5, their number and their identity, and their union affiliations, if any, with 8 or 10 exceptions, was totally unknown to Mr. Aitchison, Mr. Anselm, Mr. Swiren or anyone connected with the management of the company, and the discharge was a blanket discharge of all the men then within the buildings.

6. On the following morning, the company presented in the Circuit Court of Lake County, Illinois, its sworn complaint, a certified copy of which is attached hereto as Exhibit "A", requesting the issuance of an injunctional order 395 ordering and directing, amongst other things, the immediate vacation of buildings 3 and 5 by the men then in possession thereof, and the return of the said buildings to Fansteel Company; that thereupon the injunctional order, a certified copy of which is attached hereto and marked Exhibit "B", was entered by Ralph J. Dady, presiding Judge of the Circuit Court of Lake County, Illinois, ordering and directing, among other things, the men within buildings 3 and 5 to immediately vacate said buildings, and to turn over the buildings and contents thereof to the Fansteel Company; that shortly thereafter and on the same day, the writ of injunction, a certified copy of which is attached hereto and marked Exhibit "C", issued from and under the seal of the Circuit Court of Lake County, Illinois, pursuant to the aforesaid injunctional order; that all of the defendants named in said complaint appeared in court by their counsel, Joseph Jacob and Lester F. Collins, at the said proceedings and their appearance was entered of record; that about the hour of 12:00 o'clock, Noon, on the 18th day of February, 1937, Lawrence A. Doolittle, the duly elected and acting sheriff of Lake County, Illinois, accompanied by Thomas Kennedy, Chief Deputy Sheriff of

Lake County, Illinois, and certain other deputies, went to buildings 3 and 5 and attempted to gain entrance thereto; that the said sheriff and deputy sheriff were refused admittance to the said buildings by the men in possession thereof; that they thereupon read the writ of injunction through an open window to a group of men occupying building 3 and passed copies of the said writ of injunction through the window to the men within the building; that the sheriff then and there made inquiries of the men in the building, or certain of them, as to whether or not they would comply with the terms of the said writ of injunction, and was informed that the men refused to leave the premises; thereupon, the Sheriff and his Chief Deputy proceeded to building 5 and repeated the same procedure, and immediately thereafter copies of the said writ of injunction were posted upon and about buildings 3 and 5.

7. Thereafter, on the said 18th day of February, 1937, the company presented its verified petition to the Circuit Court of Lake County, Illinois, requesting the issuance forthwith of a writ of attachment for the men within buildings 3 and 5 for a rule to show cause why they should not be adjudged guilty of contempt for failure to obey the injunctive order and writ of injunction of the Circuit Court of Lake County, Illinois, and be punished therefor; that, thereafter, on the 18th day of February, 1937, a writ of attachment issued out of and under the seal of the Circuit Court of Lake County, Illinois, a certified copy of which is attached hereto and marked Exhibit "D", ordering and directing the Sheriff of Lake County to forthwith seize the bodies of certain named persons and all other persons occupying buildings 3 and 5, and bring them forthwith before the Circuit Court of Lake County, Illinois; that on the morning of February 19, 1937, Lawrence A. Doolittle, the duly elected and acting Sheriff of Lake County, accompanied by Chief Deputy Thomas Kennedy, and approximately 100 deputy sheriffs, went to buildings 3 and 5 and advised the men within the said buildings of the issuance of the said writ of attachment and requested the said men in the said buildings 3 and 5 to surrender themselves to the Sheriff and his deputies; that the men in said buildings 3 and 5 refused to comply with the request of the Sheriff, and, thereupon, the Sheriff and his deputies attempted to gain entrance to buildings 3 and 5; that the efforts of the Sheriff and his deputies to gain entrance to buildings 3 and 5 were repulsed by a barrage of missiles; that, thereafter, the men in buildings 3 and 5 continued to remain



in said buildings continuously until the morning of February 26, 1937.

8. That on the morning of February 26, 1937, Lawrence A. Doolittle, the duly elected, qualified and acting Sheriff of Lake County, Illinois, accompanied by his Chief Deputy, Thomas E. Kennedy, and approximately 50 deputy sheriffs again went to buildings 3 and 5 and attempted to gain entrance thereto; that the efforts of said Sheriff and his deputies to gain entrance to the said buildings were resisted by said persons in said buildings and they were again met by a barrage of missiles; thereupon, the Sheriff and his deputies were compelled to use tear and ematic gas in order to evict all of said persons in said buildings 3 and 5, and by said means the possession of the said buildings was restored to the Fansteel Company.

9. During the period from February 17th to February 26th, 1937, copies of the Waukegan and Chicago daily papers were delivered twice daily to the men in buildings 3 and 5; that practically all of the papers so delivered carried accounts of the occupation of buildings 3 and 5, and that many of such stories contained statements with reference to the issuance of the injunctinal order and writ of injunction heretofore mentioned and the efforts of the deputy sheriffs to evict the strikers on the morning of February 19, 1937.

10. Among the men occupying buildings 3 and 5 for the period from February 17th to February 26th, 1937, were the following, all of whom are named in Paragraphs 8 and 11 of the complaint filed herein, and none of whom were re-employed by the company:

Joseph Aigner  
Andrew M. Anderson  
Steve Ark  
Nick Benkovich  
Roy Brown  
Edward Brunke  
Al. Bunton  
Jerome Camernik, Jr.  
Ted Christianson  
Joseph Chudy  
Lester Crump  
John Cudith, Jr.  
399 Leo P. Daluga  
Vincent Dietmeyer  
Clarence Dreyer

Harold Dreyer  
Raymond E. DuBois  
Charles E. Fulkerson, Sr.  
Angelo Galbavy  
Phil Graimer  
Stanley Grum  
Eugene D. Hendee  
Fred Hensley  
Victor Hertel  
Art Holm, Jr.  
John W. Jackoway  
Oscar Johnson  
Tony Kancilja  
Edward Kaucic  
John Kondrath

Frank Latz  
 Herman Latz  
 Eric Lindberg  
 Steve Luczo  
 Elmer Luke  
 Nate Mogel  
 Frank Moxey  
 Frank Musech  
 Antone Nagode  
 Theodore Ohlson  
 Joseph Petraitis  
 John Praski  
 Merrit Pratt  
 Robert Pratt  
 Joseph Richveis

Andrew Rode  
 Alvar Rommppaine  
 Arvo Rommppaine  
 Ed. Ruck  
 Frank Scheuer  
 Edward Schuman  
 Luther Small  
 George W. Smith  
 Carl A. Swanson  
 Charles Warner  
 Paul Wells  
 Allen White  
 Fred Yaeger  
 Frank Zelenick

11. Also among the men occupying buildings 3 and 5 for the period from February 17th to February 26th, 1937, were the following, all of whom were re-employed by the Company:

400 Andrew Bereczky  
 Louis Bereczky  
 Howard Bond  
 Wallace Bourdeau  
 Wilbert Braden  
 George Cerk  
 George Devine  
 John Germer  
 Ray Grossenheider  
 Gilbert Haney  
 Albert Henning  
 Ralph Hoffman  
 Chester Hook  
 Stanley Janas  
 Chester Janas  
 Eino Johnson  
 Fred Karpinski  
 Frank Ludlow

Frank Nickoley  
 Frank Osenek  
 Casimir Petkus  
 John Plewa  
 Frank Ptak  
 Reginald Ross  
 Eric Schultz  
 Alf Simonson  
 Arthur Sladek  
 Milton Sladek  
 Orlin Swanson  
 Oscar Westerlund  
 Charles Smith  
 William Van Treek  
 Stanley Verenski  
 Cornelius Dugan  
 Victor Oliver

12. All of the following men were employees of the company on February 17, 1937, but did not participate in the seizure and retention of the building, but aided and abetted the men within the said buildings 3 and 5 in the retention of the said buildings by soliciting, procuring and delivering of food, bedding, cigarettes, stoves, or other supplies, or in some other manner, and thereby assisted the said men in

buildings 3 and 5 to remain therein contrary to the injunctional order and writ of injunction heretofore mentioned; that all of the said men named in this paragraph had actual knowledge of the issuance of the said injunctional order and writ of injunction ordering and directing the men in buildings 3 and 5 to vacate the same, and that their activities in aiding and abetting the men in buildings 3 and 5 were done with a view to and for the purpose of assisting the said men to remain in the said buildings after the issuance of the said injunctional order and writ of injunction and with knowledge thereof. None of the men named in this Paragraph were discharged by the Company on February 17, 1937, or thereafter, and none of these men were re-called to work by the company upon the resumption of plant operations shortly after February 26th, 1937:

W. D. Crump	William D. Magness
Thomas E. Fagan	Paul Makovec
Charles E. Fulkerson, Jr.	George Mondro
Frank Furlan	Bartol Puntarich
John Grom	Harry Raynor
Otto Latz	John Starovich
Joe Lima	Mike Zelenick

402 13. Counsel for the National Labor Relations Board enters into this stipulation reserving his right to object to and does object to the consideration of any of the facts heretofore stipulated on the grounds that no one of the facts stipulated are relevant material or competent to any of the issues raised by the complaint in the within cause.

14. All of the parties hereto reserve the right to adduce additional evidence on any one of the points covered by this stipulation.

15. This stipulation shall not operate as a waiver of the privilege heretofore claimed by witnesses as provided by subsection 3 of Section 11 of the National Labor Relations Act.

Dated: This 21st day of June, A. D. 1937.

Wm. R. Walsh,

*Attorney for National Labor Relations Board.*

Levinson, Becker, Peebles & Swiren and  
Sidney H. Bloch,

*Attorneys for Respondent.*

Lester F. Collins,

*Attorney for Lodge 66 of the Amalgamated Association of Iron, Steel & Tin Workers of North America.*

## EXHIBIT A.

Certified copy.

IN THE CIRCUIT COURT OF LAKE COUNTY.

• • (Caption—37551) • •

## COMPLAINT.

Fansteel Metallurgical Corporation, a New York corporation, complaining of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, the Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth  
404 Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary Roe, et al., alleges:

1. That it is a corporation duly organized and existing under the laws of the State of New York and authorized and licensed to do business in the State of Illinois; that it is engaged, in the State of Illinois, in the refinement, manufacture and sale of rare metals and chemical compounds of metals.

2. That the plant and offices of the Plaintiff are located at North Chicago, Illinois, in Lake County, occupying seven and one-half acres, extending along 22nd Street between the Chicago, North Shore & Milwaukee Railroad tracks and Commonwealth Avenue, and that all of the acts herein complained of have occurred and taken place in said plant in said Lake County.

3. That Reginald Ross, R. E. DuBois, John Kondrath, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grum, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm,

Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor and certain other persons, all of whom are members of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, (the names of certain of the individual members of said Lodge being unknown to the Plaintiff) have conspired together and with certain other persons who are members of the Steel Workers Organizing Committee of the Committee for Industrial Organization, including one Philip Murray and one Van A. Bittner, unlawfully to seize, take and hold possession of the plants and property of the Plaintiff located as aforesaid at North Chicago, Illinois, and to prevent the Plaintiff, its officers, employees, agents and representatives from occupying said premises and from operating and carrying on the business of the Plaintiff.

4. That in pursuance of such unlawful and malicious conspiracy, at or about the hour of three o'clock in the afternoon on the 17th day of February, 1937, the said Defendants unlawfully and with force and arms seized and took possession of the plants and property of the Plaintiff, forcibly evicted from the said premises certain of the officers, agents and lawful representatives of the Plaintiff and barricaded themselves within certain of the plants and buildings on the Plaintiff's premises; that the said Defendants have refused admittance to the officers, employees and legal representatives of the Plaintiff and refused to comply with their demand to be restored to possession of said premises; that the said Defendants have refused to communicate with the lawful representatives of the Plaintiff and have, with force and arms, repelled the attempts by the duly constituted police officers of North Chicago, Illinois, the Sheriff of Lake County and his deputies to restore the plants and properties to the lawful possession of the Plaintiff. The Defendants do now hold and retain unlawful possession of the said plants and properties of the Plaintiff.

5. That certain of the Defendants at one time were employees of the Plaintiff and as such employees had a right to egress and ingress to and from the Plaintiff's property; that while upon the premises as such employees, the said Defendants unlawfully and forcibly seized and took possession of the plants and properties of the Plaintiff and ejected therefrom certain of the officers, agents and lawful representatives of the Plaintiff as aforesaid; that thereupon, all of such employees and Defendants then in possession of the premises

were ordered out of said premises by the duly constituted representatives of the Plaintiff; that all of such employees and Defendants have since been discharged and have received notice of such discharge. That none of said persons in possession of said plants and properties of the Plaintiff have any right or license in or on said plants or properties, and each of them is an unlawful trespasser, and that the trespass being committed by each of said Defendants is a continuing trespass. Each of said Defendants has repeatedly been called upon by the Plaintiff and its lawful representatives to leave the premises of the Plaintiff and surrender the  
407 possession of the Plaintiff's plants and properties which are so unlawfully withheld; and that the Defendants have been notified that unless the premises were peaceably surrendered to the Plaintiff, the Plaintiff would seek relief from a court of equity to compel their eviction; but each of the Defendants has refused and continue to refuse to leave the premises and have threatened and continue to threaten that if the Plaintiff's officers and agents attempt to evict them from the premises, they will resist by violence and bloodshed and will retaliate by destroying and injuring the plants, properties and machinery of the Plaintiff.

6. That the said Defendants who have so unlawfully seized and continue to hold possession of the Plaintiff's plants and properties number approximately one hundred men; that the said Defendants have seized the plants and properties of the Plaintiff pursuant to a purported strike of all of the employees of the Plaintiff called by the said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and by the said Steel Workers Organizing Committee of the Committee for Industrial Organization; that in fact, more than two hundred employees of the Plaintiff out of a total number of three hundred normally employed by it do not wish to go on strike, are not members of the aforementioned Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and are desirous and willing to continue their employment;  
408 that certain of the persons who are now barricaded within the plants and properties of the Plaintiff have no desire to remain therein or to continue in an unlawful trespass upon the Plaintiff's property but have been coerced and intimidated into remaining in the plants by threats and personal violence; that more than two hundred of the employees of the Plaintiff have been prevented from pursuing their employment with the Plaintiff by threats of violence and in-



timidation and by guards who have been stationed by the Defendants at strategic points and who have blocked by force and arms the entrances to the plants and properties and who have threatened personal violence to any employee of the Plaintiff who shall attempt to enter upon the premises in pursuit of his lawful employment or who shall attempt to oust the Defendants from their unlawful control and possession of the plants and properties of the Plaintiff.

7. That the said defendants, in unlawful possession of the Plaintiff's plants and properties, have set up in and about the plants of the Plaintiff, sleeping and living quarters and have threatened to remain in the premises of the Plaintiff indefinitely and to prevent the Plaintiff from carrying on its operations, with the malicious purpose of ruining the Plaintiff's business; that the plant and facilities of the Plaintiff were not intended and are not adapted for such use; that the said Defendants are accordingly committing a nuisance thereon and irreparably damaging the said property.

409 8. That in fact, the purpose of the so-called strike called by the said Defendants is not the enforcement of any lawful grievance against the Plaintiff but its primary purpose is a malevolent one to injure the Plaintiff and its business, and the said purpose is being accomplished not by lawful means but by a forceful seizure and trespass on the Plaintiff's property, by threats, intimidation and violence directed toward the officers of the Plaintiff and the employees who are desirous of continuing in the employ of the Plaintiff.

9. That the plants and properties who are now in the unlawful possession of the said Defendants are of a value of one and one-half million dollars; that the said plants contain delicate machinery and equipment for the extraction of rare metals by chemical, metallurgical and electro-metallurgical processes, the manufacture of chemical compounds of metals; the said plants include a research laboratory with many important and valuable processes which are now in the course of development and refinement, and the continued possession of the properties and laboratories by the Defendants will result in the deterioration and destruction of various of the chemicals and rare metals and the loss of many of the important inventions now in the process of development. The Plaintiff's business is unique and the Plaintiff is the sole source of supply for hundreds of industrial manufacturers throughout the country of such items as rare metal contact points for ignition systems, varied tantalum parts for

410 chemical and rayon industries, molybdenum and special alloy wires for use in vacuum tubes, radios and commercial radio tubes, battery chargers and rectifiers, various hard metals for use as cutting tools in the preparation of important industrial dies. The continuance of the unlawful occupation of the plants and properties of the Plaintiff by the Defendants and the consequent interruption of operations will not only irreparably injure the Plaintiff but will cause great damage to hundreds of industrial concerns throughout the United States which are dependent for their continued operations upon the free flow of the products manufactured by the Plaintiff.

10. That the Plaintiff has a fully equipped manufacturing plant which, without operation, not only becomes useless and valueless but a heavy expense to the Plaintiff. The only way that the plant of the Plaintiff can be operated and the very valuable store of raw materials on hand manufactured into finished products and disposed of by the Plaintiff is for the Plaintiff to be permitted to exercise its legal right to employ those who would work for that purpose. The Plaintiff is being unlawfully deprived of this right by the unlawful conduct of the said Defendants who are intimidating and putting in fear by unlawful means those who would otherwise work for the Plaintiff, and the Defendants are thereby depriving the Plaintiff of the right to use and dispose of its property, constituting a direct and irreparable injury to the Plaintiff. The Defendants are persons of limited means  
411 and no financial responsibility which would enable the

Plaintiff to recover from the Defendants the vast losses which the unlawful acts of the Defendants are inflicting upon the Plaintiff.

11. That by reason of the fact that the said Defendants and each of them are engaged in a continuous trespass upon the property of the Plaintiff, that the number of trespassers is numerous and constantly changing, and that the continuance of such trespass is resulting in irreparable injury to the Plaintiff, the Plaintiff is without adequate remedy at law and is entitled to the aid of a court of equity in restoring to it the lawful possession and enjoyment of its own property.

12. That notice has been orally served upon the Defendants herein on numerous occasions during the afternoon of February 17, 1937 that unless said premises were surrendered forthwith to the Plaintiff, resort would be had by Plaintiff to a court of equity, with a view to invoking injunctive aid to restore said premises to the Plaintiff; that at 6:00

P. M. on February 17, 1937, a written notice was served upon Charles Swanson, Secretary of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and upon other Defendants by the delivery to him and them of said notice, which notice was as follows:

“Notice

To Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, John Kondrath, Charles Swanson, Charles Warner, R. E. DuBois, et al:

Notice Is Hereby Given that Thursday, February 18, 1937, at the opening of Court or as soon thereafter as counsel can be heard, we shall appear before the Honorable Ralph J. Dady, Judge of the Circuit Court of Lake County, Illinois, in the Lake County Courthouse, Waukegan, and then and there present a bill of complaint and application for preliminary writ of injunction restraining the further trespass and occupation of our property and interference with our employees, and mandatory injunction directing evacuation of our plant by you and all other trespassers.”

Wherefore, Plaintiff respectfully prays that an Order may be issued by this Court:

(1) Ordering and directing that the Defendants and each of them shall immediately cease and desist from occupying or possessing any portion of the plants or properties of the Plaintiff located as aforesaid at North Chicago, Illinois, and from interfering with the Plaintiff's use and possession of all such plants and properties;

(2) That said Defendants and each of them shall immediately surrender to the Plaintiff all keys to any of the buildings or any portion thereof, now held or in the possession of the Defendants or any of them;

(3) Ordering and directing the Defendants and each of them to deliver forthwith to the Plaintiff all goods, wares, merchandise, equipment, raw materials and all property of whatever nature and description now held or in the possession of the Defendants and which the Plaintiff owns or to which it is rightfully entitled;

(4) Ordering and directing that the Defendants and each of them shall immediately vacate and remove from the said premises and from all plants and properties now occupied or possessed by them, without damaging or injuring any portion of the said premises, plants or properties or any of the machinery, equipment or appurtenances contained thereon;

(5) Ordering and directing that the Defendants and each of them shall cease, desist and refrain from interfering with

any of the plants, properties, machinery and equipment of the Plaintiff or the Plaintiff's proper use and enjoyment thereof, or from continuing to trespass upon any of the plants, properties, machinery and equipment of the Plaintiff;

(6) Ordering and directing that the Defendants and each of them shall cease, desist and refrain from preventing or attempting to prevent, by threats, personal violence, coercion, intimidation or any other unlawful means, any officers, agents or employees of the Corporation from entering upon the premises or the plants and properties of the Plaintiff or from entering or continuing in the employment of the Plaintiff;

(7) Ordering and directing that the Defendants and each of them shall cease, desist and refrain from in any manner interfering with the free access to the Plaintiff's premises, plants and properties of the officers, agents, employees of the Plaintiff and all other duly authorized persons, or from in any manner interfering with the operation of the plants or properties of the Plaintiff;

(8) For such other and further relief as the Court may deem meet and proper.

Fansteel Metallurgical Corporation,

By Robert J. Aitchison,

Robert J. Aitchison,

*President.*

Levinson Becker Peebles & Swiren,

Sidney Block,

*Attorneys for Plaintiff.*

415 State of Illinois }  
County of Lake } ss.

Robert J. Aitchison, residing in Cook County, Illinois, being first duly sworn, on oath deposes and says:

(1) That he is the duly elected, qualified and acting President of Fansteel Metallurgical Corporation, a New York corporation, the Plaintiff in the foregoing Complaint;

(2) That he has read the foregoing Complaint by him subscribed and that he knows of his own knowledge that the facts contained therein are true.

Robert J. Aitchison.

Sworn to and subscribed before me this 18th day of February, A. D. 1937.

(Notarial Seal)

Nona B. Long,  
*Notary Public.*

416 State of Illinois }  
County of Lake } ss.

Albert J. Anselm, residing in Lake County, Illinois, being first duly sworn, on oath deposes and says:

(1) That he is the Plant Superintendent of Fansteel Metallurgical Corporation, a New York corporation, the Plaintiff in the foregoing Complaint, and is in active charge of the manufacturing and plant operations of said Corporation.

(2) That as such Plant Superintendent, he is personally familiar with all of the acts and things set forth in the foregoing Complaint; that he knows that each of the allegations contained in said Complaint is true.

A. J. Anselm.

Sworn to and subscribed before me this 18th day of February, A. D. 1937.

Nona B. Long,  
Notary Public.

(Notarial Seal)

Endorsed: "Filed Feb. 18, 1937 L. J. Wilmot, Clerk."

417 State of Illinois }  
Lake County } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete copy of Complaint filed in said Court on the 18th day of February, A. D. 1937, in a certain cause now pending in said Court on the Chancery side thereof, wherein Fansteel Metallurgical Corporation, a New York Corporation is Plaintiff, and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers, etc. et al. are Defendants, Gen. No. 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County this 9th day of June, A. D. 1937.

L. J. Wilmot,  
Clerk.

(Seal)

## EXHIBIT B.

IN THE CIRCUIT COURT OF LAKE COUNTY.

• • (Caption—37551) • •

## ORDER.

This cause coming on to be heard on the verified complaint of Fansteel Metallurgical Corporation, and the affidavits thereto attached, and which have been prevented in support thereof, the court Finding:

1. That due notice has been given to such of the defendants to be affected by this order, as could conveniently be served, of the time and place of the application for the entry of this order.

419 2. That irreparable injury will be caused to the Plaintiff, Fansteel Metallurgical Corporation, unless the relief prayed for in their verified complaint is granted by this court immediately.

The court being fully advised in the premises,

It Is Hereby Ordered, Adjudged and Decreed, That:

(1) The defendants and each of them and their members and agents shall immediately cease and desist from occupying or possessing any portion of the plants or properties of the Plaintiff located at North Chicago, Illinois, and from interfering with the Plaintiff's use and possession of all such plants and properties;

(2) Said Defendants and each of them and their members and agents shall immediately surrender to the Plaintiff all keys to any of the buildings or any portion thereof, now held or in the possession of the Defendants or any of them;

(3) The Defendants and each of them and their members and agents shall deliver forthwith to the Plaintiff all goods, wares, merchandise, equipment, raw materials and all property of whatever nature and description now held or in the possession of the Defendants and which the Plaintiff owns or to which it is rightfully entitled;

(4) The Defendants and each of them and their members and agents shall immediately vacate and remove from  
420 the said premises and from all plants and properties now occupied or possessed by them, without damaging or injuring any portion of the said premises, plants or properties



or any of the machinery, equipment or appurtenances contained thereon;

(5) The Defendants and each of them and their members and agents shall cease, desist and refrain from unlawfully interfering with any of the plants, properties, machinery and equipment of the Plaintiff or the Plaintiff's proper use and enjoyment thereof, or from continuing to trespass upon any of the plants, properties, machinery and equipment of the Plaintiff;

(6) The Defendants and each of them and their members and agents shall cease, desist and refrain from preventing or attempting to prevent, by threats, personal violence, coercion, intimidation or any other unlawful means, any officers, agents or employees of the Corporation from entering upon the premises or the plants and properties of the Plaintiff or from entering or continuing in the employment of the Plaintiff;

(7) The Defendants and each of them and their members and agents shall cease, desist and refrain from in any manner unlawfully interfering with the free access to the Plaintiff's premises, plants and properties of the officers, agents, employees of the Plaintiff and all other duly authorized persons, or from in any manner unlawfully interfering with the operation of the plants or properties of the Plaintiff.

421 This order shall become effective immediately upon the filing herein and the approval by this court of a bond in the penal sum of Twenty Five Hundred Dollars (\$2500.00) with good and sufficient security, conditioned upon the payment by the Plaintiff of all damages which may be sustained by the Defendants or any one or more of them by reason of the wrongful issuing of this injunction or the entering of this order, and also such costs and damages as may be awarded against the said Plaintiff in case this said order and injunction shall be dissolved.

Enter:

Ralph J. Dady,  
*Judge.*

Dated: February 18, 1937.

Endorsed: "Filed Feb. 18 '37. L. J. Wilmot, Clerk."

422 State of Illinois, }  
 Lake County. } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete copy of Injunction Order filed and entered of record in said Court on the 18th day of February, A. D. 1937, in a certain cause now pending in said Court on the Chancery side thereof, wherein Fansteel Metallurgical Corporation, a New York Corporation, is Plaintiff, and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers etc. et al are Defendants, Gen. No. 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County, this 9th day of June, A. D. 1937.

L. J. Wilmot,

(Seal)

Clerk.

423

### EXHIBIT C.

#### Injunction Writ.

State of Illinois, }  
 Lake County. } ss.

The People of the State of Illinois:

To Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, the Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grun, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary Roe, et al. and to your attorneys, solicitors, agents, and servants, and to each and every one of them,—Greeting:

Whereas, it has been represented to the Honorable Ralph J. Dady, Judge of the Seventeenth Judicial Circuit of the

State of Illinois, and sole presiding Judge of the Circuit Court of Lake County, in said Circuit, and State aforesaid, on the part of Fansteel Metallurgical Corporation, a New York Corporation, Plaintiff in its complaint exhibited before said judge, and held in said Court against you, the said Fansteel Metallurgical Corporation, a New York Corporation, praying to be relieved touching the matters therein complained of. In which said complaint is stated, among other things, that you are combining and confederating with others to injure the plaintiff, touching the matters set forth in the said complaint, and that your actings and doings in the premises are contrary to equity and good conscience. And

Whereas the said Judge, having under his hand, endorsed upon said complaint an order that a Writ of Injunction and Order issued out of said Court, according to prayer of said complaint. We, therefore, in consideration thereof, and of the particular matters in said bill set forth, Do Strictly Command You, the said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, the Steel Workers Organizing Committee of the Committee for Industrial Organization, Philip Murray, Van A. Bittner, Reginald Ross, R. E. DuBois, John Kondrath, Edward Ruck, Fred Hensley, Harold Dreyer, Charles Swanson, Charles Warner, Angelo Galbavy, Frank Zelenik, Frank Latz, Robert Pratt, John Germer, Steve Ark, William Van Treek, Alexander Bunton, Stanley Grun, Roy Brown, Elsworth Peters, Ted Christiansen, A. M. Anderson, Carl Swanson, Lester Crump, Oscar Johnson, Arthur Holm, Jr., Frederick Yaeger, Jerome Camernik, Jr., David Nostell, Eugene Hendee, Vincent Dietmeyer, John Taylor, John Doe, Mary Roe, et al. and the persons before mentioned, and each and every one of you, that You and Your Members and Agents Do Absolutely:

(1) Immediately cease and desist from occupying or possessing any portion of the plants or properties of the plaintiff located at North Chicago, Illinois, and from interfering with the Plaintiff's use and possession of all such plants and properties;

(2) Immediately surrender to the Plaintiff all keys to any of the buildings or any portion thereof, now held or in the possession of the Defendants or any of them;

(3) Deliver forthwith to the Plaintiff all goods, wares, merchandise, equipment, raw materials and all property of whatever nature and description now held or in possession of the Defendants and which the Plaintiff owns or to which it is rightfully entitled;

(4) Immediately vacate and remove from the said premises and from all plants and properties now occupied or possessed by them, without damaging or injuring any portion of the said premises, plants or properties or any of the machinery, equipment or appurtenances contained thereon;

(5) Cease, desist and refrain from unlawfully interfering with any of the plants, properties, machinery and equipment of the Plaintiff or the Plaintiff's proper use and enjoyment thereof, or from continuing to trespass upon any of the plants, properties, machinery and equipment of the Plaintiff;

(6) Cease, desist and refrain from preventing or attempting to prevent, by threats, personal violence, coercion, intimidation or any other unlawful means, any officers, agents or employees of the Corporation from entering upon the premises or the plants and properties of the Plaintiff or from entering or continuing in the employment of the Plaintiff;

(7) Cease, desist and refrain from in any manner unlawfully interfering with the free access to the Plaintiff's premises, plants and properties, of the officers, agents, employees of the Plaintiff and all other duly authorized persons, or from in any manner unlawfully interfering with the operation of the plants or properties of the Plaintiff, until the Honorable Court shall make other order to the contrary. Hereof fail not under penalty of what the law directs.

To the Sheriff of said County to execute and return in due form of law.

Witness L. J. Wilmot, Clerk of said Circuit Court, and the seal thereof, at Waukegan in said County, this 18th day of February, 1937.

L. J. Wilmot,  
Clerk.

(Circuit Court  
Seal  
Lake County, Ill.)

424

## Sheriff's Return.

State of Illinois, }  
 County of Lake. } ss.

I have duly served the within writ this 18th day of February, 1937, upon all the within named persons, by leaving about 25 copies of this writ upon the premises occupied by said persons, by posting at least 2 copies of this writ on each building occupied by said persons and by leaving a copy of said writ with Carl Swanson, Harold Dreyer and Frank Latz, and by reading said writ to the said defendants.

Lawrence A. Doolittle,

*Sheriff.*

By Thomas E. Kennedy,

*Deputy.*

## Endorsed:

"Fee Service . . . . . \$33.00

"Mileage . . . . . 14.60

"Return . . . . . .25

"Total \$47.85

"Filed Feb. 18 '37. L. J. Wilmot, Clerk."

425 State of Illinois, }  
 Lake County. } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete copy of Injunction Writ filed in said Court on the 18th day of February, A. D. 1937, in a certain cause now pending in said Court on the Chancery side thereof, wherein Fansteel Metallurgical Corporation, a New York Corporation, is plaintiff, and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers etc. et al. are Defendants, Gen. No. 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County this 22nd day of June A. D. 1937.

L. J. Wilmot,

(Seal)

*Clerk.*

State of Illinois }  
 Lake County } ss.

The People of the State of Illinois to the Sheriff of said County, Greeting:

We Command You, to take the following persons, to-wit:

Wilbert Braden, Mike Zelesnik, Jerome Camernik, Jr., Howard Bond, Andrew Rode, David Nostell, Geo. Kallio, R. Dubois, Eugene Hendee, Merritt Pratt, Joe Petratis, Vincent Dietmeyer, Robert Pratt, Chester Hook, Andy Bercezy, Nick Benkovich, Frank Maxey, Eric Schultz, Lee Stanley, Cornelius Dugan, Stanley Gurm, John Germer, Theodore Ohlson, Al Bunton, Ralph Huffman, Casmer Petkus, William Van Treck, Oscar Westerlund, Paul Wells, Gus Dreyer, A. Hunning, Gilbert Haney, John Plewa, R. Ross, Fred Hensley, Anthony Nagode, J. Kondrath, Ed. Ruck, Ed Brunke, G. Divine, Eino Johnson, Luther Small, L. Bereszky, Alf. Simonson, Frank Nickoley, Frank Latz, Tony Koncilia, Frank Schewer, Frank Musech, W. Bouideau, Leo Daluga, Alvar Rappaine, Fred Karpinski, Ed Schuman, Ray Grosenheider, Ellsworth Peters, Clarence Dreyer, Ed Kancie, Ted Christiansen, Elmer Luki, Milton Coon, A. Anderson, Victor Heitel, Victor Weatherhead, Carl Swanson, John Praski, George Cerk, Lester Crump, V. Olince, Herman Latz, Charles Warner, 427 Chas. Fulkuson, Nate Mozel, Oscar Johnson, Gus Canelakes, Art Sladek, Art Holm, Jr., Angelo Galbavy, Steve Ark, Frederick Yaeger, Steve Lucyo, Frank Renek, Allan White, Aroo Rommpance, Joe Chudy, Frank Ptak, Frank Zelenek, Pete Skarbalus, Roy Brown, Joe Richveis, Geo. Smith, and any and all other persons occupying the properties and plant of the Fansteel Metallurgical Corporation, a corporation, at North Chicago, Illinois, in violation of the order entered by this court on February 18, 1937, in Cause No. 37551, and them safely keep, so that you have their bodies forthwith before the Circuit Court of Lake County, Illinois, to answer the People of the State of Illinois, to show cause, if any they have why they should not be adjudged in contempt of said court for violating an injunctional order entered on February 18, 1937, in said cause and the Writ of Injunction pursuant thereto. And have you then and there this Writ.



Witness L. J. Wilmot, Clerk of said Court, and the Seal thereof, at Waukegan, in said County, this 18th day of February, A. D. 1937.

(Seal of Court)

L. J. Wilmot,  
Clerk.

428

Sheriff's Return.

State of Illinois }  
County of Lake } ss.

I have duly served the within writ by seizing and attaching the bodies of the following named individuals and bringing said persons before the bar of the Circuit Court of Lake County, Illinois, on the day and date set opposite their names, all as ordered, directed and commanded in the within writ:

J. Kondrath	March 1, 1937
Frank Latz	March 1, 1937
Herman Latz	March 1, 1937
R. DuBois	March 1, 1937
Carl Swanson	March 1, 1937
Eric Schultz	March 1, 1937
John Cudich	March 2, 1937
Philip Graner	March 2, 1937
Geo. Kallie	March 2, 1937
Robert Pratt	March 2, 1937
John Germer	March 2, 1937
Ralph Huffmann	March 2, 1937
Steve Ark	March 2, 1937
Joe Chudey	March 2, 1937
Pete Skarbalus	March 2, 1937
Joe Petratis	March 2, 1937
Theodore Ohlson	March 2, 1937
Gilbert Haney	March 2, 1937
Fred Hensley	March 2, 1937
Ted Christiansen	March 2, 1937
A. Anderson	March 2, 1937
Lester Crump	March 2, 1937
Oscar Johnson	March 2, 1937
Frederick Yaeger	March 2, 1937
Roy Brown	March 2, 1937
Eugene Hendee	March 2, 1937
Stanley Gurm	March 2, 1937

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William Van Treck	March 2, 1937
Gus Dreyer	March 2, 1937
Anthony Nagode	March 2, 1937
Luther Small	March 2, 1937
Clarence Dreyer	March 2, 1937
Victor Heitel	March 2, 1937
Gus Canelakes	March 2, 1937
Angelo Galbavey	March 2, 1937
Steve Lucyo	March 2, 1937
Frank Zelenck	March 2, 1937
Joe Richveis	March 2, 1937
Wilbert Braden	March 4, 1937
Merritt Pratt	March 4, 1937
Nick Benkovich	March 4, 1937
Frank Musech	March 4, 1937
Alvar Ramppaine	March 4, 1937
Ed. Kancie	March 4, 1937
Victor Weatherhead	March 4, 1937
Nate Mozel	March 4, 1937
Art Sladek	March 4, 1937
Andrew Rode	March 4, 1937
Frank Maxey	March 4, 1937
Cornelius Dugan	March 4, 1937
Casmer Petkus	March 4, 1937
Paul Wells	March 4, 1937
Ed. Ruck	March 4, 1937
Eino Johnson	March 4, 1937
W. Bonideau	March 4, 1937
Fred Kaprinski	March 4, 1937
Ellsworth Peters	March 4, 1937
4291 Charles Warner	March 4, 1937
Art Holm, Jr.	March 4, 1937
Jerome Camernik, Jr.	March 4, 1937
David Nostell	March 4, 1937
Vincent Dietmeyer	March 4, 1937
Andy Bercezký	March 4, 1937
Al. Bunton	March 4, 1937
Ed. Brunke	March 4, 1937
Frank Nickoley	March 4, 1937
Frank Schewer	March 4, 1937
Leo Daluga	March 4, 1937
Ed. Schuman	March 4, 1937
Elmer Luki	March 4, 1937
Chas. Fulkuson	March 4, 1937

Aroo Ramppance  
Stanley Verenski  
George Smith  
Milton Sladek  
Olin Swanson  
Charles Smith

March 4, 1937  
March 4, 1937  
March 4, 1937  
March 4, 1937  
March 4, 1937  
March 4, 1937  
Lawrence A. Doolittle,  
*Sheriff.*

Endorsed:

"Service	\$77.00
"Milage	11.55
"Return	.25
	<hr/>
"	\$88.80

"Filed Mar. 12 '37 L. J. Wilmot, Clerk."

430 State of Illinois }  
Lake County } ss.

I, L. J. Wilmot, Clerk of the Circuit Court in and for said County in the State aforesaid, and keeper of the Records and Seal thereof, Do Hereby Certify the foregoing to be a true, perfect and complete copy of Attachment Writ filed in said Court on the 12th day of March, A. D. 1937, in a certain cause now pending in said Court on the Chancery side thereof, wherein Fansteel Metallurgical Corporation, a New York Corporation is Plaintiff, and Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers etc. et al are Defendants, Gen. No. 37551.

In Testimony Whereof I have hereunto set my hand and affixed the Seal of said Court, at my office in Waukegan, in said County this 22nd day of June, A. D. 1937.

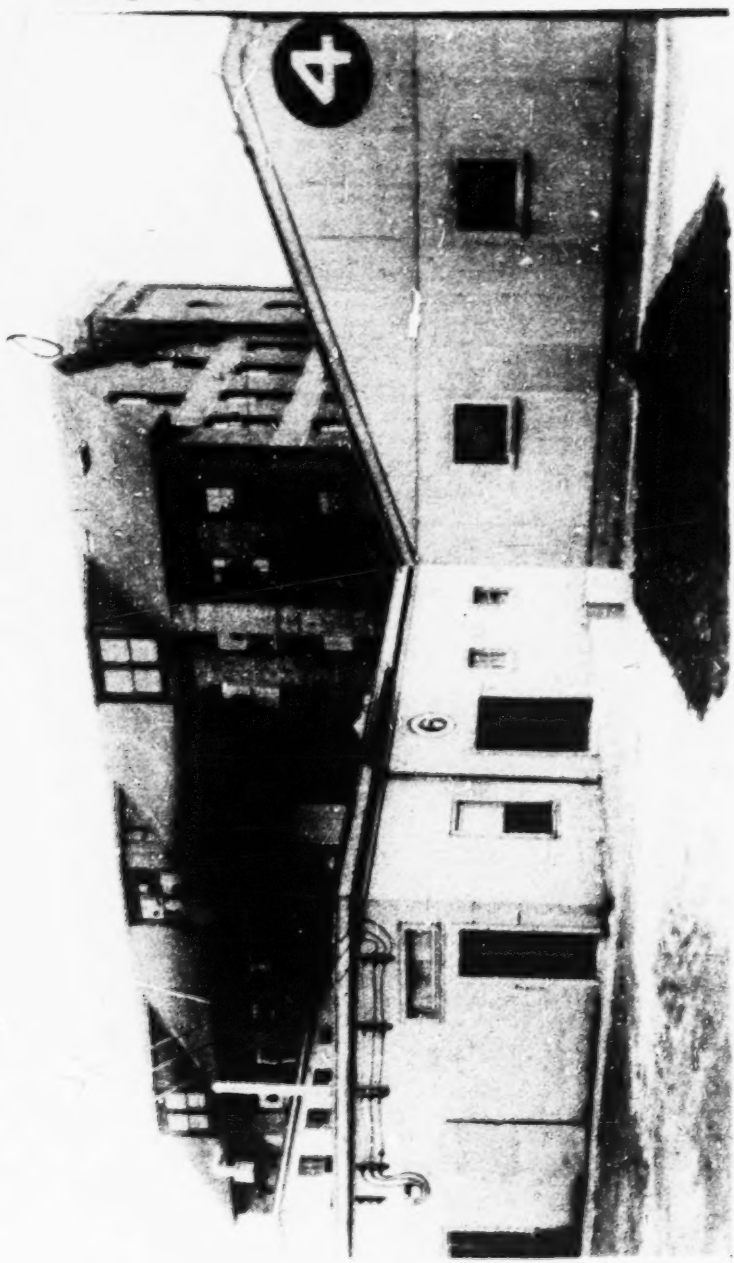
(Seal)

L. J. Wilmot,  
*Clerk.*



**Respondent Exhibit No. 8**

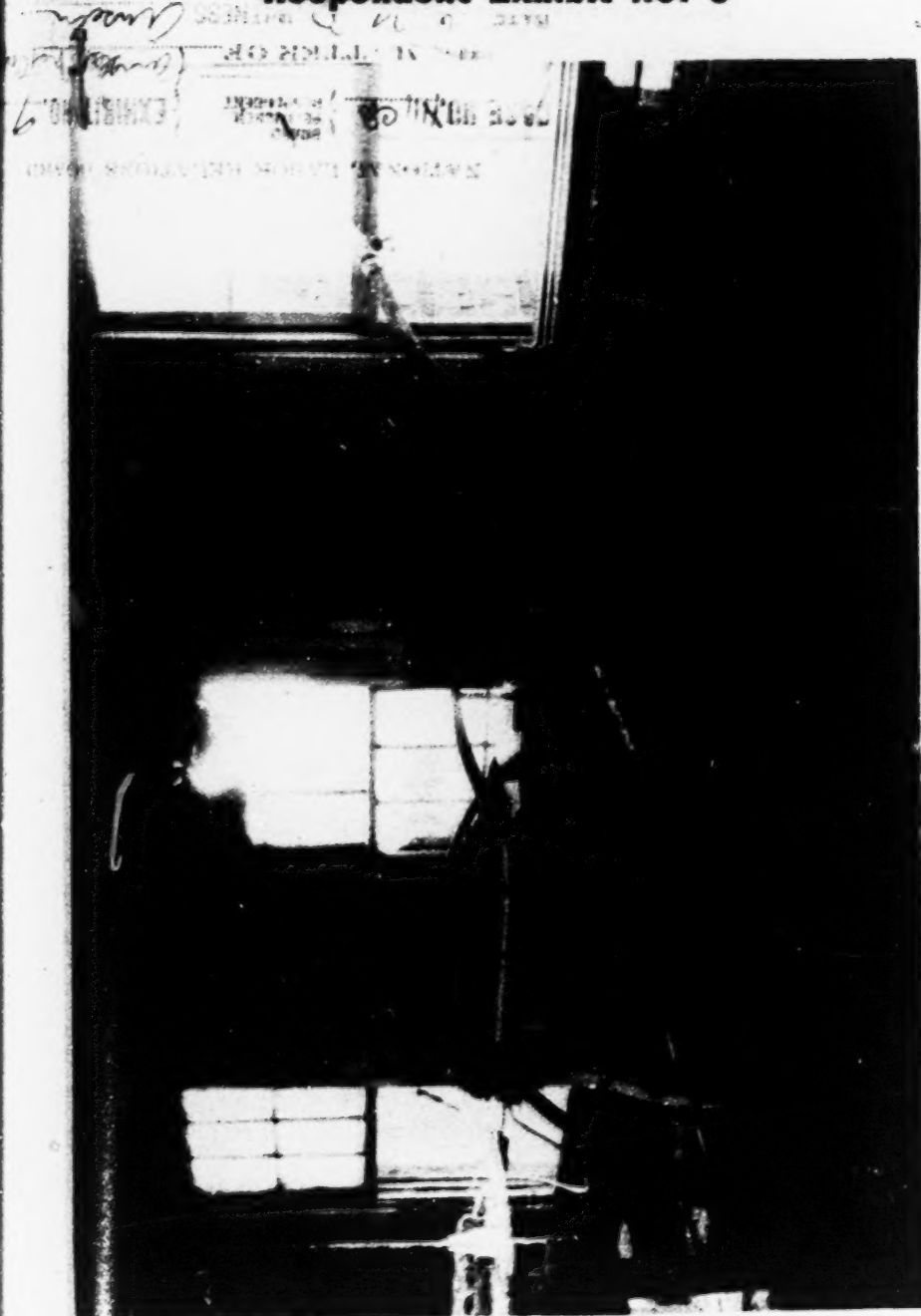
EXHIBIT NO. 8  
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
IN SENATE  
JANUARY 17, 1907

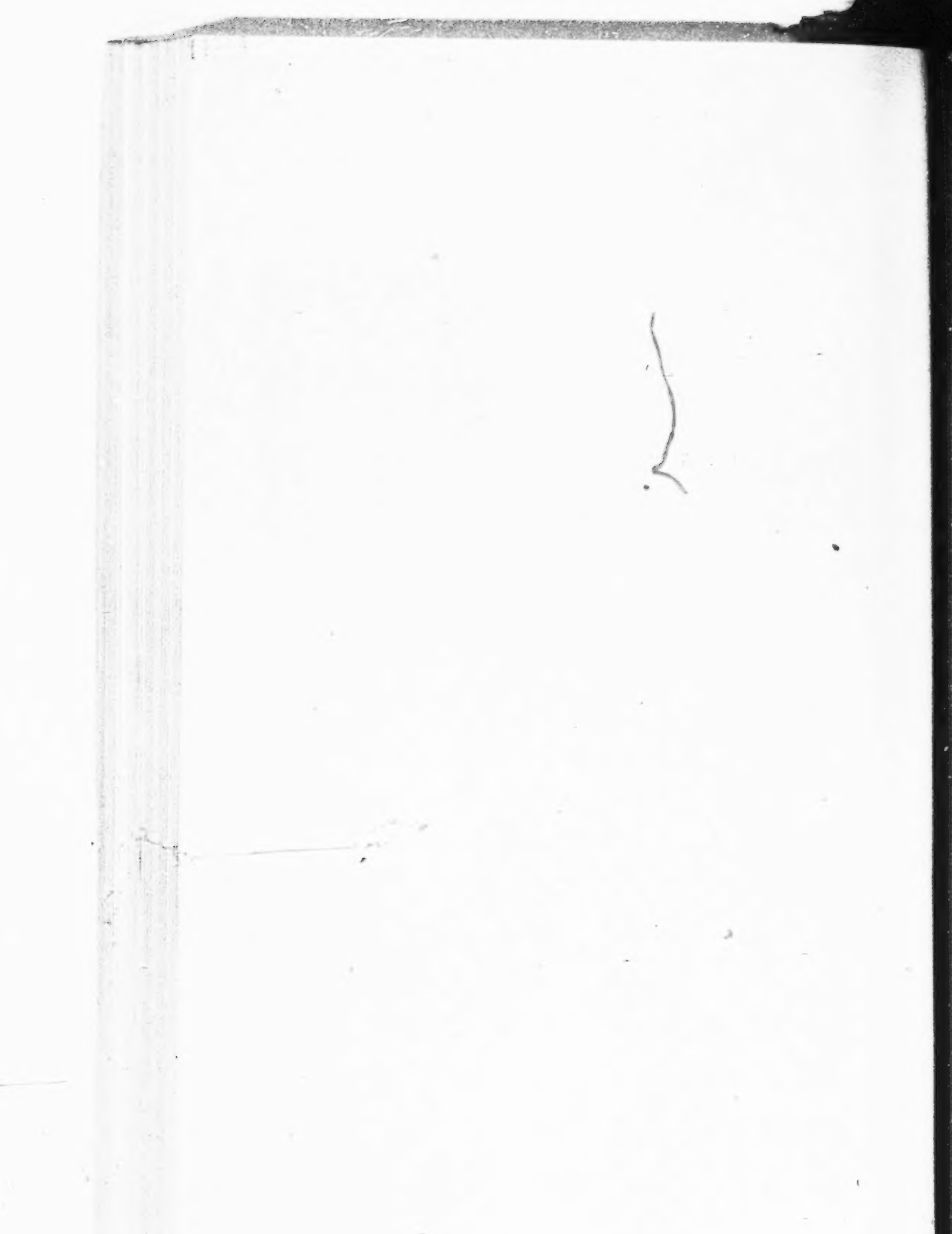






**Respondent Exhibit No. 9**





**Respondent Exhibit No. 10**



**Respondent Exhibit No. 11**







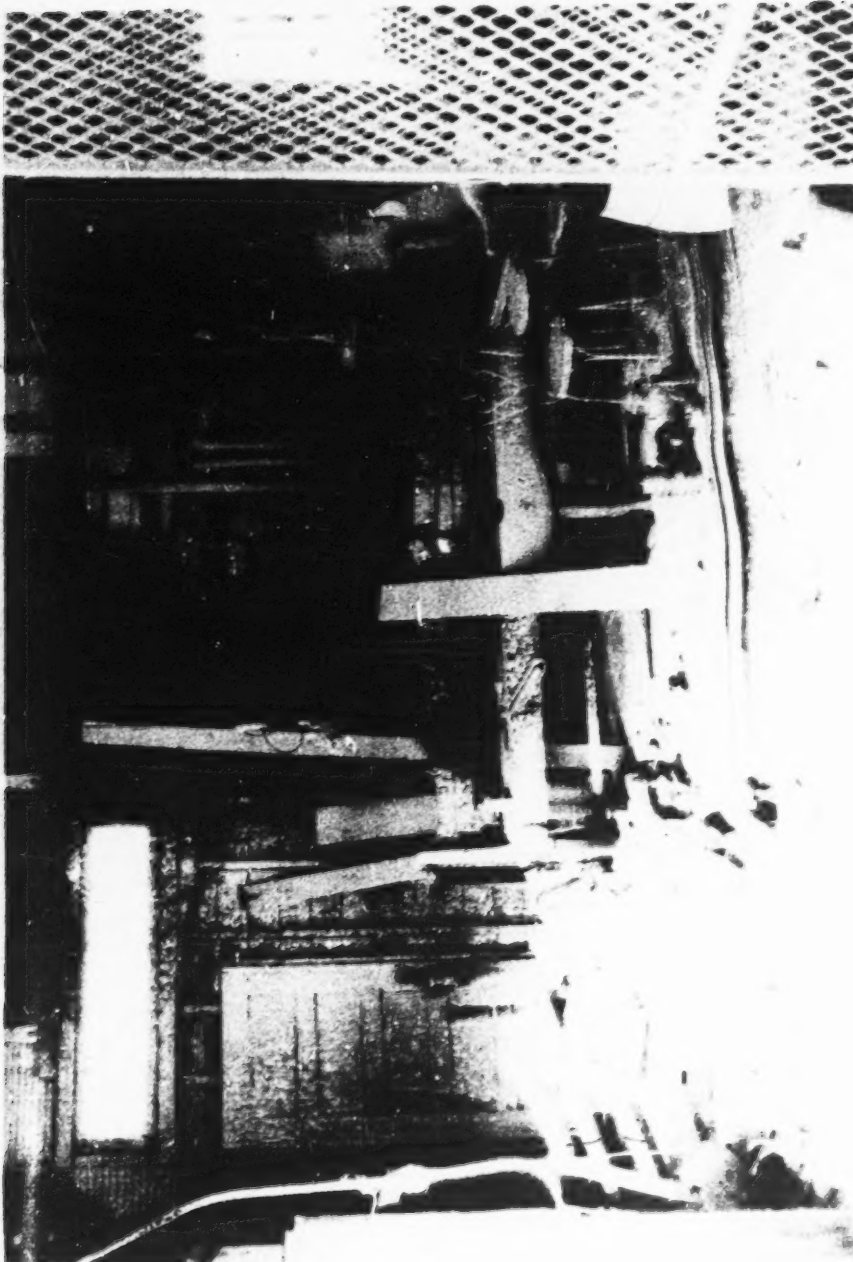
**Respondent Exhibit No. 12**

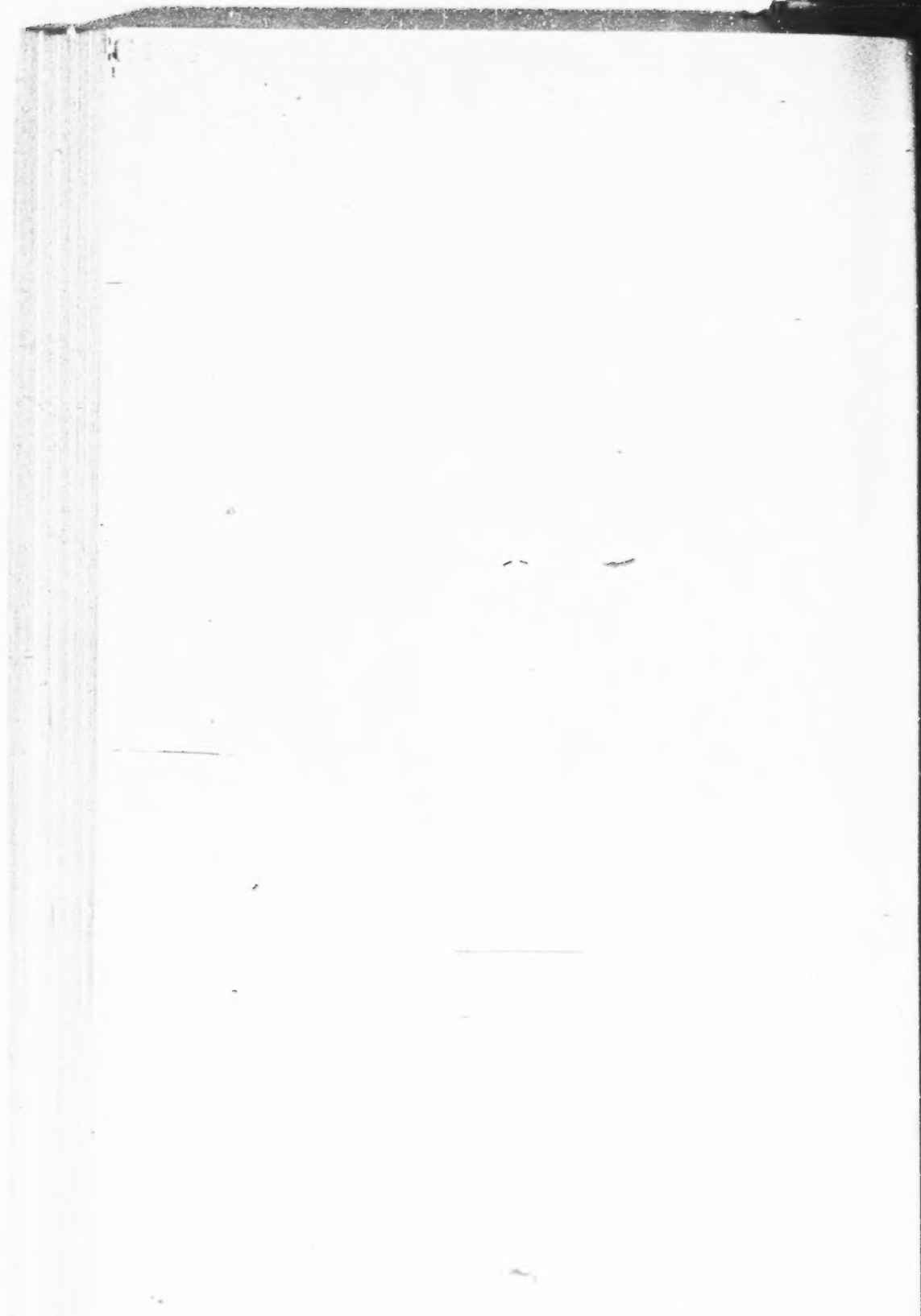


*Page 13*  
**Respondent Exhibit No. 13**

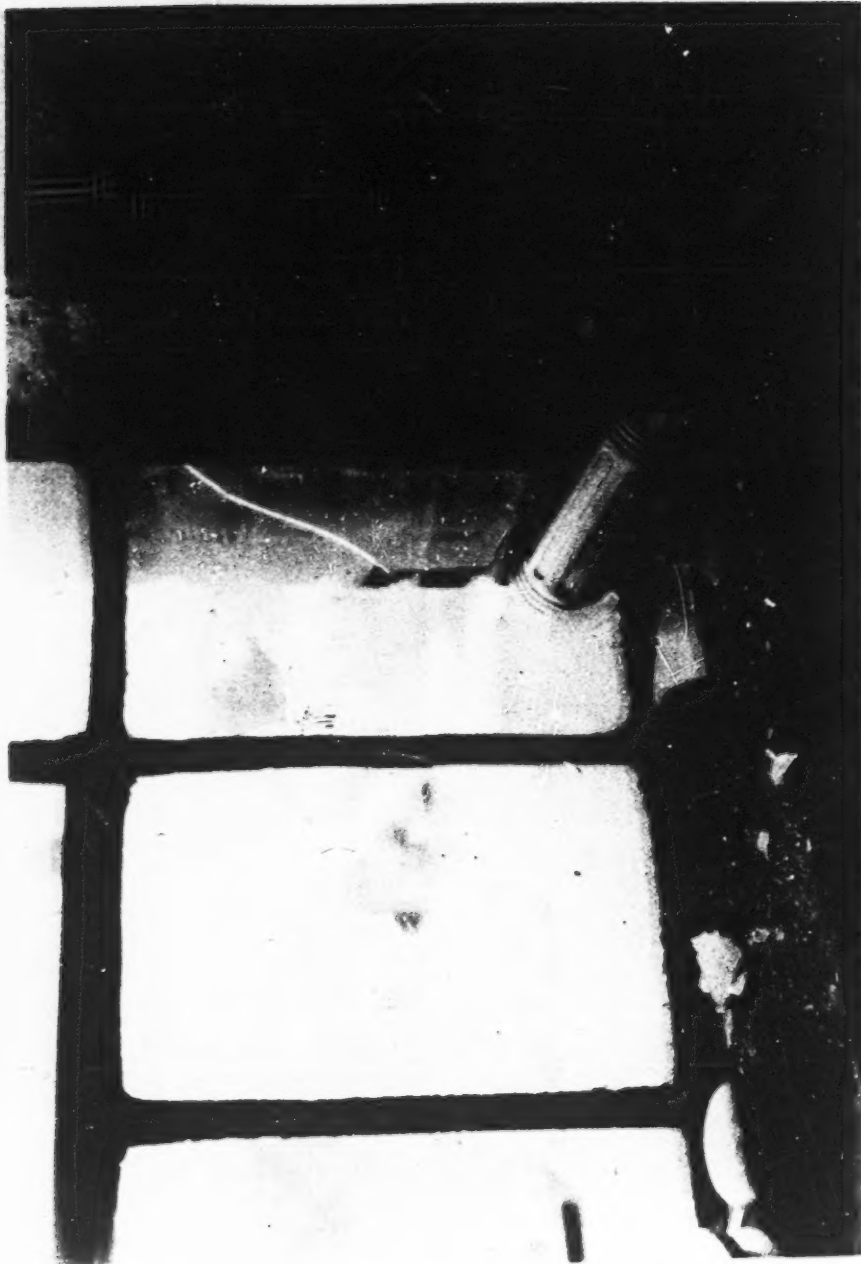




**Respondent Exhibit No. 14**

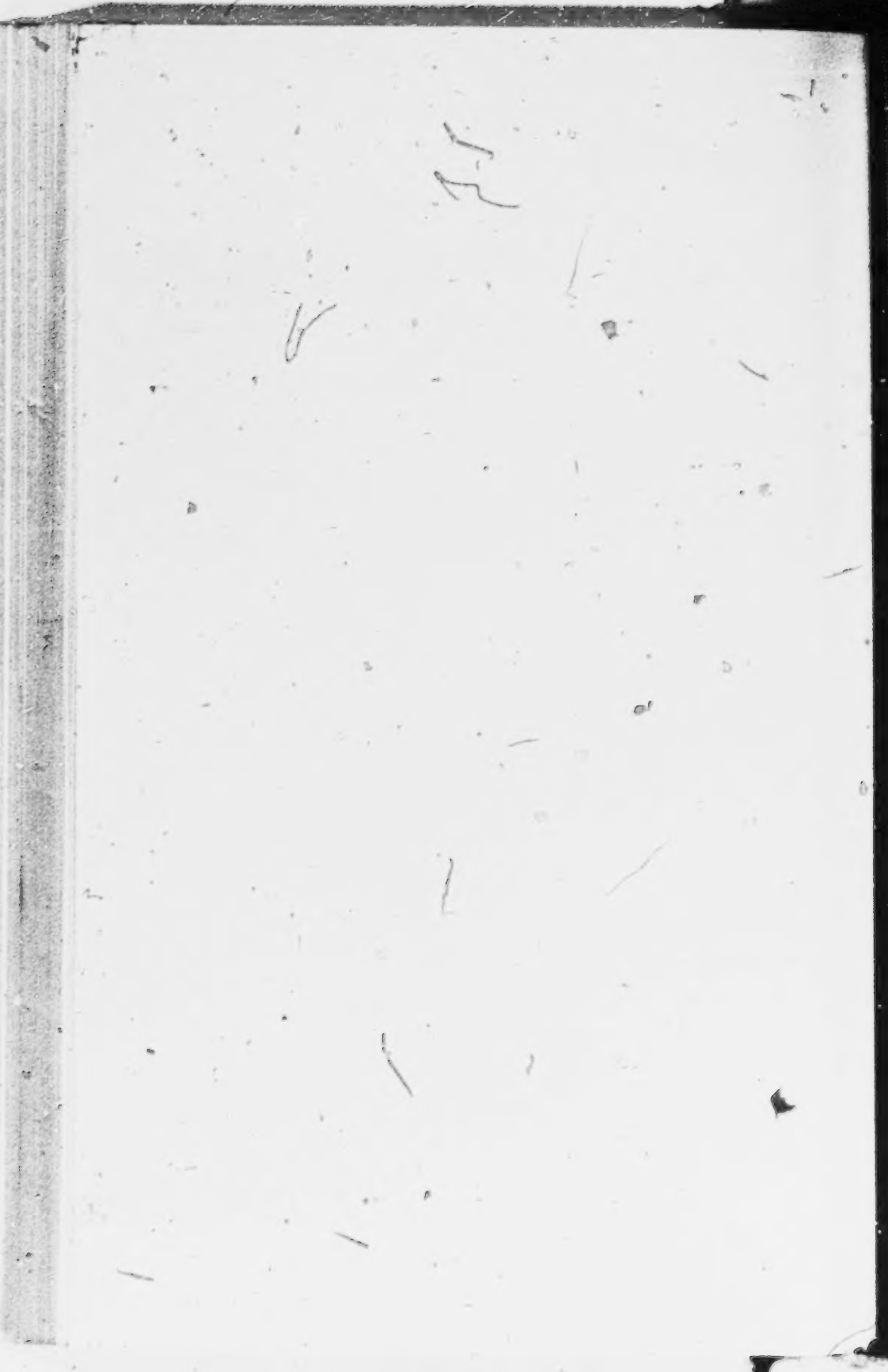




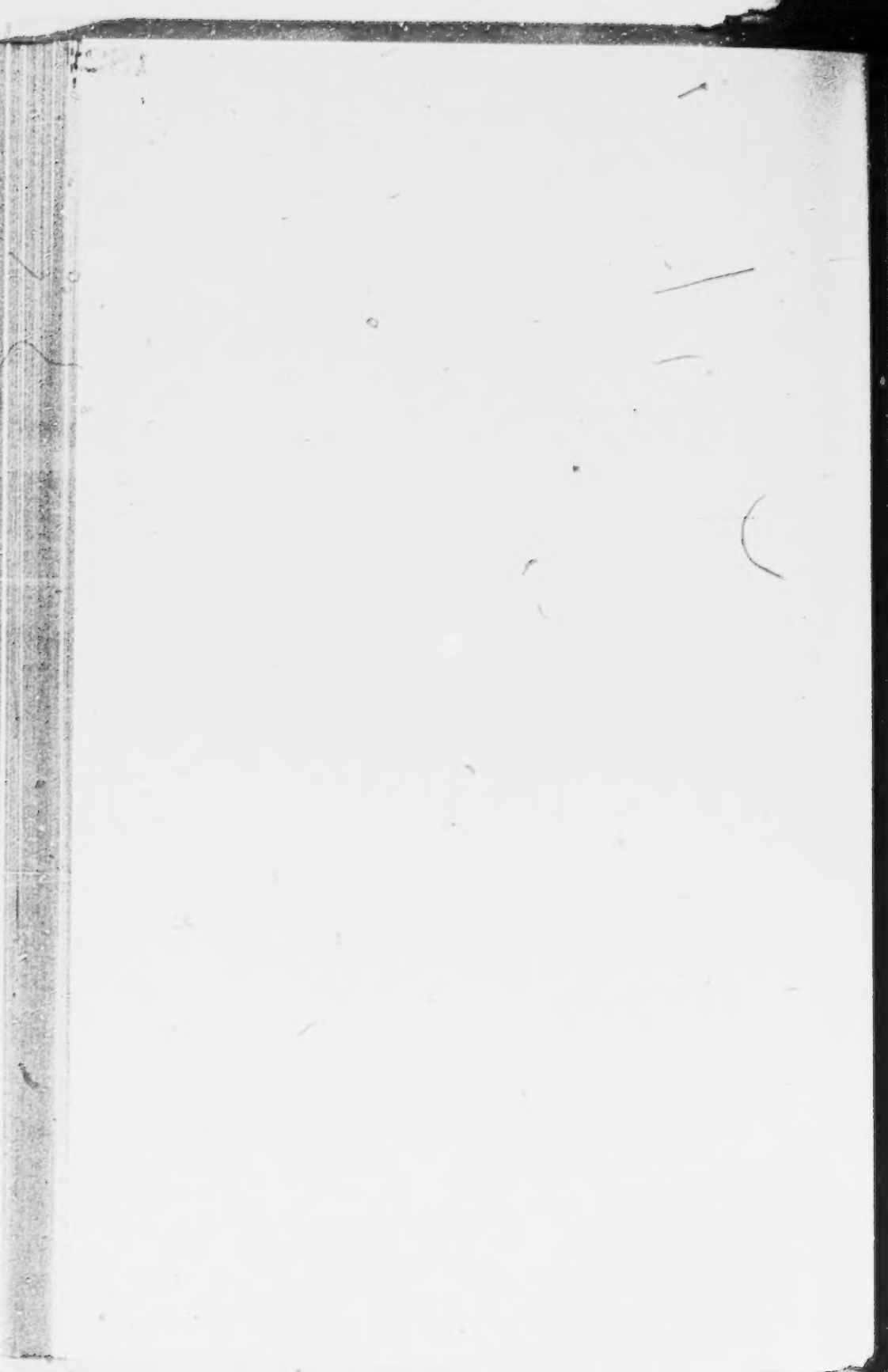
**Respondent Exhibit No. 15**



**Respondent Exhibit No. 16**



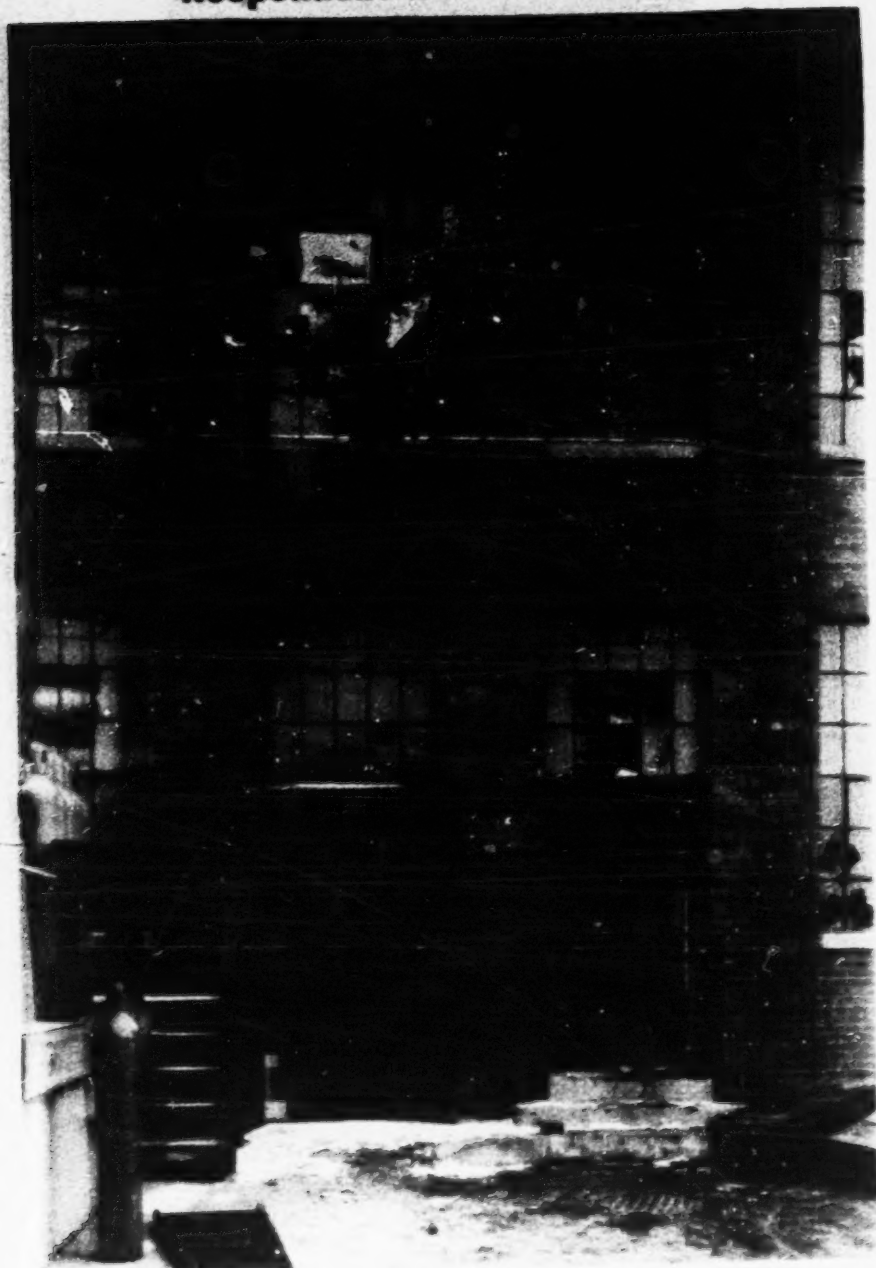
**Respondent Exhibit No. 17**





**Respondent Exhibit No. 18**



**Respondent Exhibit No. 19**



**RESPONDENT'S EXHIBIT NO. 20.**

**6/22/37**

**Contact Employees as of February 17, 1937**

**Replaced by Women Employees**

**Grinders**

**(Including Crowning & Polishing)**

**Ed. Brunke**

**Al. Bunton**

**Phil Gramer**

**Stanley Grum**

**Victor Hertel**

**John Praski**

**Stanley Janis**

**William VanTreek**

**Frank Kuszewski**

**Frank Nickoley**

**Spinning**

**Frank Scheuer**

**Elmer Luke**

**Cutters**

**Leo Daluga**

**Harold Dreyer**

**Clarence Dreyer**

**Charles Fulkerson, Sr.**

**Edward Schuman**

**Eric Lindberg**

**T. E. Fagan**

**William Magness**

**Charles Smith**

**Orlin Swanson**

**Stanley Verenski**

**Note: 3 men, all old employees, are still retained on the difficult and unusual grinding jobs.**

1830

*Respondent's Exhibit No. 21.*

445

## RESPONDENT'S EXHIBIT NO. 21.

6/22/37

## DISC CUTTING COSTS TOTAL OF LABOR AND WHEELS

Size Cut	Per M Discs				
	Dec. 1936	Jan. 1937	March 1937	April 1937	May 1937
	Men	Men	Women 1st Month	Women 2nd Month	Women 3rd Month
.117 x .033	.39	.38	.37 (512,000 cut)	.25 (410,000 cut)	.29 (110,000 cut)
.142 x .037	.86	.70	.72	.60	.49
.149 x .037	.75	.74	.69	.58	.51
.149 x .042	.80	.70	.62	.52	.53
.150 x .022	.74	.78	.70	.67	.60
.172 x .024	1.00	.92	.97	.80	.64
.174 x .045	1.25	.97	.73	.70	—
.187 x .037	1.73	1.73	1.88	.75	.66

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## RESPONDENT'S EXHIBIT NO. 22.

6/22/37

## Comparative Grinding Costs Per Thousand Pieces

Part No.	Operation	Men			Women		
		Dec.	Jan.	Feb.	Mar.	Apr.	May
104 1135	Crown	<u>\$ .626</u>	<u>\$ .650</u>	<u>\$ .650</u>	<u>\$ .664</u>	<u>\$ .491</u>	<u>\$ .44</u>
145 1248	Face Grind	<u>\$ .696</u>	<u>\$ .650</u>	<u>\$ .650</u>	<u>\$ .589</u>	<u>\$ .502</u>	<u>\$ .53</u>
158 1266	Crown	<u>\$ .750</u>	<u>\$ .751</u>	<u>\$ .749</u>	<u>\$ .868</u>	<u>\$ .540</u>	<u>\$ .41</u>
104 1282	Crown	<u>\$ .702</u>	<u>\$ .700</u>	<u>\$ .700</u>	<u>\$ .692</u>	<u>\$ .588</u>	—
128 1303	Crown	<u>\$ .700</u>	<u>\$ .700</u>	<u>\$ .700</u>	<u>\$ .575</u>	<u>\$ .488</u>	<u>\$ .45</u>
127 1321	Side Grind	—	—	—	<u>\$ .537</u>	<u>\$ .662</u>	—
127 1321	Face Grind	—	—	—	<u>\$ .524</u>	<u>\$ .480</u>	<u>\$ .48</u>
128 1325	Face Grind	<u>\$ .65</u>	<u>\$ .860</u>	<u>\$ .650</u>	<u>\$ .641</u>	<u>\$ .532</u>	<u>\$ .45</u>
94 2075	Crown	<u>\$ .688</u>	<u>\$ .700</u>	<u>\$ .699</u>	<u>\$ .834</u>	<u>\$ .482</u>	<u>\$ .46</u>
121 2120	Crown	<u>\$ .736</u>	<u>\$ .750</u>	<u>\$ .750</u>	<u>\$ .655</u>	<u>\$ .518</u>	—
94 2256	Crown	<u>\$ .700</u>	<u>\$ .700</u>	<u>\$ .700</u>	<u>\$ .614</u>	<u>\$ .582</u>	<u>\$ .53</u>

Note: Items underlined indicate no production for the month but show the prevailing piece rate.



447

RESPONDENT'S EXHIBIT NO. 23.

6/22/37

Maintenance Department

Total Number of Jobs reduced from 14 to 4  
As of February 17, 1937

Carpenters & Millwrights

Andrew Anderson  
Ted Christiansen  
Eugene Hendee  
Art Holm, Jr.  
Oscar Johnson  
Carl Swanson  
Jack Taylor (Part time—John Taylor)

Carpenter's Helper

None

Electricians

Lester Crump  
Vincent Dietmeyer  
Charles Warner  
Electrician's Helper  
Jerome Camernik, Jr.

Steamfitters

Fred Yaeger  
David Nostell

Foreman

Art Holm, Sr.

448

RESPONDENT'S EXHIBIT NO. 24.

6/22/37

Tool Room Employees as of February 17, 1937  
Who Did Not Return to Work After March 1, 1937

R. E. DuBois  
Frank Moxey  
Ted Ohlson  
Paul Wells  
Joe Petraitis  
Joseph Hoff  
Harry Rayner  
Joseph Aigner (Janitor)

449

## RESPONDENT'S EXHIBIT NO. 25.

6/22/37

SUMMARY OF FANSTEEL METALLURGICAL CORPORATION  
EMPLOYEES AND VASCOLOY-RAMET CORPORATION  
EMPLOYEES

	Sept. 10, 1936	Sept. 21, 1936	Feb. 17, 1937	June 11, 1937
<b>Production and Maintenance Em- ployees of Fansteel Metallurgical Corporation:</b>				
Hourly employees (production, tool room, maintenance, watchmen and yard).....	186	189	234	250
Watch, yard and firemen (hourly basis).....	5	5	5	5
Laboratory employees engaged in production work (monthly basis) .....	4	4	4	4
<b>Total.....</b>	<b>195</b>	<b>198</b>	<b>243</b>	<b>259</b>
<b>Production and Maintenance Em- ployees of Vascoloy-Ramet Cor- poration:</b>				
All on hourly basis.....	48	48	52	51
<b>Total.....</b>	<b>243</b>	<b>246</b>	<b>295</b>	<b>310</b>
<b>Other Employees Not Listed Above:</b>				
<b>Fansteel Metallurgical Corporation:</b>				
Foremen and Production Su- pervision .....	12	12	13	11
Engineering Department.....	6	5	7	6
Laboratory Employees (non- production) .....	13	12	13	14
Administrative offices and Sales	30	30	39	40
<b>Vascoloy-Ramet Corporation:</b>				
Administrative & Office.....	8	8	9	10
<b>Total.....</b>	<b>69</b>	<b>67</b>	<b>81</b>	<b>81</b>
<b>Grand Total.....</b>	<b>312</b>	<b>313</b>	<b>376</b>	<b>391</b>

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## Respondent Exhibit No. 26

INE JOURNAL-TIMES \* SATURDAY, FEBRUARY 20, 1937



**DEPUTIES DODGED THESE IN FIGHT**—Two of the 125 policemen and sheriff's deputies who engaged in a spectacular but futile fight to rout 82 sit-down strikers in two North Chicago, Ill., plants of the Fansteel Metallurgical corporation, are shown later examining "ammunition" hurled at them by the strikers. The collection includes pulley wheels, pipe and sundry other pieces of hardware. (Associated Press photo).

18

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**Respondent Exhibit No. 27**

WAUKEGAN NEWS-SUN \* SATURDAY, FEBRUARY 20, 1937



©News-Sun Photo

**STRIKE AMMUNITION.** Special deputies are shown here examining the pulleys, steel rods, tubes and other missiles hurled at them by sitdown strikers in the fracas early yesterday morning. The strikers' ammunition rather indicates that some of the machinery must have been stripped to provide the strikers with missiles.

183

449

Pr

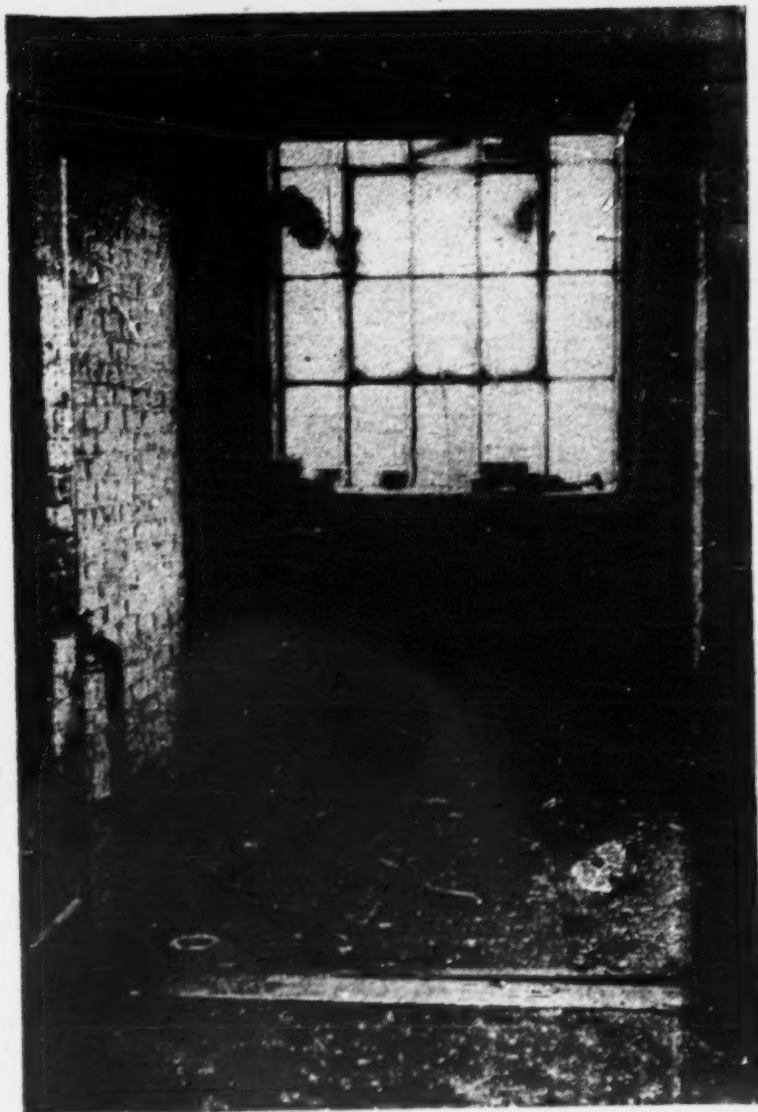
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## **Respondent Exhibit No. 28**

CHICAGO AMERICAN \* FRIDAY, FEBRUARY 26, 1937



Littered elevator in the Fansteel plant after the battle. Fragments of metal were used as weapons by the strikers. They had small effect.



*The battle of North Chicago had casualties on both sides, for the "sitters" answered the gas barrage with one of bolts. Here is an injured deputy sheriff being assisted away from the "front."*

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**Respondent Exhibit No. 29**

HERALD & EXAMINER \* SATURDAY, FEBRUARY 7, 1937



*This is not just before the battle, brother; it's right in the midst of it. Arrow points to a pulley wheel hurled by Fansteel "sitters" at the two boys, who are equipped with gas masks and gas guns.*

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454

## RESPONDENT EXHIBIT NO. 30-A.

6/22/37

## Factory Work Order

Date Feb. 11-37.

To Art Holms

Please Proceed With the Following Work:

The two west windows in contact dept. need attention, either tighten up by caulking or install a deflector inside, so as to force the cold air towards ceiling—Girls are complaining of this location being too cold to work—while the center of room is far too hot for comfort.

This work to be done at once.

For Further Details See

Bldg. \_\_\_\_\_ Floor \_\_\_\_\_ Dept. \_\_\_\_\_

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

Dept. \_\_\_\_\_ Acct. No. \_\_\_\_\_ A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_

A. J. Anselm,

Factory Superintendent.

Finished \_\_\_\_\_

Return This Copy to Supt. Office

Original

455

## RESPONDENT EXHIBIT NO. 30-B.

6/22/37

## Factory Work Order

Date 11-25-36.

To Holm

Please Proceed With the Following Work:

Install new rubber ring in dry pipe valve in Bldg. 11.

Ring has been ordered.

For Further Details See

Bldg. \_\_\_\_\_ Floor \_\_\_\_\_ Dept. \_\_\_\_\_

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

Dept. 18. Acct. No. 304. A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_

A. J. D.,

Factory Superintendent.

Finished \_\_\_\_\_

Return This Copy to Supt. Office

Original

1844

*Respondent's Exhibit No. 30-D.*

456

RESPONDENT EXHIBIT NO. 30-C.

6/22/37

Factory Work Order

To Art Holm

Date 9-4-36.

Please Proceed With the Following Work:  
 Partition in basement between cleaning unit and the centerless grinder.

— did not do —

For Further Details See

Bldg. \_\_\_\_\_ Floor \_\_\_\_\_ Dept. \_\_\_\_\_

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

 Dept. 2. Acct. No. 303. A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_  
 L. C. H.,

 Finished \_\_\_\_\_  
*Factory Superintendent.*

 Return This Copy to Supt. Office  
 Original

457

RESPONDENT EXHIBIT NO. 30-D.

6/22/37

Factory Work Order

To Art Holm

Date Jun 20 1936.

Please Proceed With the Following Work:  
 Put in Larger Wash Bowl in Toilet in Bldg. 5—1st Floor.  
 Remove 1 Toilet & put urinal in this so as to make larger space for washing hands.

Called in outside contractor to do this job.—12/15/36.  
 For Further Details See Streed.

Bldg. 5. Floor 1st. Dept. 13 &amp; 14.

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

 Dept. 18. Acct. No. 304. A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_  
 L. C. H.,

 Finished \_\_\_\_\_  
*Factory Superintendent.*

 Return This Copy to Supt. Office  
 Original

458

RESPONDENT EXHIBIT NO. 30-E.

6/22/37

Factory Work Order

Date 9-1-36.

To Art Holm

Please Proceed With the Following Work:

Please change pulley on big Grinder in Bas to run 1900  
R.P.M.

For Further Details See Mask

Bldg. 3. Floor Bas. Dept. 4

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

Dept. 4. Acct. No. 303. A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_

L. C. H.,

*Factory Superintendent.*

Finished \_\_\_\_\_

Return This Copy to Supt. Office

Original

459

RESPONDENT EXHIBIT NO. 30-F.

6/22/37

Factory Work Order

Date 1-15-36.

To Art Holm

Please Proceed With the Following Work:

6 Braces or Supports for water jackets of furnaces.

For Further Details See \_\_\_\_\_

Bldg. 4. Floor \_\_\_\_\_ Dept. 18.

Miscellaneous \_\_\_\_\_

Charge Material and Labor to

Dept. 18. Acct. No. 303. A. F. E. No. \_\_\_\_\_ S. J. O. \_\_\_\_\_

A J. Dower,

*Factory Superintendent.*

Finished \_\_\_\_\_

Return This Copy to Supt. Office

Original



1846

*Respondent's Exhibit No. 30-G.*

460

RESPONDENT EXHIBIT NO. 30-G.

6/22/37

Factory Work Order

To Holm

Date 2-11-37.

Please Proceed With the Following Work:  
 Repair 3 steamlines. Leaking badly.  
 Install new Door at Fire escape exit. Rush. On 4th floor.  
 For Further Details See Hall  
 Bldg. 15. Floor 4th. Dept. 6.  
 Miscellaneous

Charge Material and Labor to  
 Dept. 6. Acct. No. 303. A. F. E. No. S. J. O.  
 A. J. A.,  
 per L. C. H.,  
 Factory Superintendent.

Finished

Return This Copy to Supt. Office  
 Original

462

RESPONDENT EXHIBIT NO. 31.

6/22/37

Inter-Office Correspondence—Fansteel Metallurgical Corporation.

To A. Holm  
 J. Welch  
 H. Philip

From A. J. Anselm  
 Date Oct. 15, 1936  
 Subject

In order to organize our Tantalum Fabrication department in the west half of the tool room, it is absolutely essential that this move be made with sufficient men. I therefore suggest that we use men from the tool room and also employees in Howard Philips gang to move this equipment today, Friday and Saturday. I don't believe there will be any objection on the part of the men in helping out on this type of work. Experienced millwrights can stand by to put up countershafts, pulleys, belts, etc.

You can reach me on the phone if you have any comments to make, otherwise I will assume that it will be made over the week end and there will be no further delay.

AJA:WS

A. J. Anselm.

462a

RESPONDENT EXHIBIT NO. 32.

6/22/37

Inter-Office Correspondence—Fansteel Metallurgical Corporation.

To A. Holm

From A. J. Anselm

Date November 23, 1936

Subject

The following list of jobs will include work remaining unfinished on work list issued to you Oct. 7th.

I am calling your attention to items 3 & 4 listed under building 6. You were instructed to do this work during the month of October.

Contact Department.

1. Install new benches, change exhaust system.
2. Arrange spinning in a group, and complete wiring.

Tool Room.

1. Bring up a lead from the suction side of contact exhauster to tool room. This exhauster to be located outside of building, on foundation we have prepared for same. Krause to run a suitable duct system to reach carbon and graphite jobs. A. F. E. 449.

2. Set up Van Norman Milling Machine. A. F. E. 450.  
Chemical Building.

1. Partition for a room South East corner of building 8, repair floors and install Marcy Ball Mill equipment. A. F. E. 467 and 447.

Building 6.

1. Install are welding curtain holders. Curtains are in for this job.
2. Move all millwright and maintenance equipment to new location. Surplus parts, pipe fittings, valves, etc., to be returned to stock. All lumber, pipe, new and usable, to come over to new location.
3. Repair skylight in south end of building 6.
4. Insulate the die polishing room. This room is too cold.

Tantalum Fabrication Department.

1. Install exhaust fan in North West corner. Fan is in stock for this job. A. F. E. 449.

A. J. Anselm.

462b

## RESPONDENT EXHIBIT NO. 33.

6/22/37

Inter-Office Correspondence—Fansteel Metallurgical Corporation.

To A. Holm  
A. Nelson  
E. A. StreedFrom A. J. Anselm  
Date December 9, 1936  
Subject

A new form has been issued to Mr. Nelson and Mr. Holm for the purpose of reporting correctly labor on the various jobs. This replaces the old job card formerly used. This form should reach the accounting department in the first mail following the day reported. Mr. Nelson will only receive copies of A. F. E. when and if he is required to perform some labor in connection therewith.

Mr. Streed will forward a carbon copy of all material requisitions which show A. F. E. number and send direct to this office.

A. J. Anselm.

462c

## RESPONDENT EXHIBIT NO. 34.

6/22/37

Inter-Office Correspondence—Fansteel Metallurgical Corporation.

To A. Holm

From A. J. Anselm  
Date Oct. 7, 1936  
Subject

In order that you may have a clear picture of the work you are responsible for in connection with the various moves we are making and propose to make, I am outlining for your immediate consideration the several jobs. The purpose in giving you the information at this time is to enable you to select materials required for each move far enough in advance so we will not be held up when we get around to the job. Work listed under carpenter work must be completed this month.

**Carpenter Work.**

No. 1. Build Ore storage room in warehouse, building 4. No windows necessary. Install two lights, one in the center of each bay, a door equipped for pad-lock.

No. 2. Install suitable insulation in the Die polishing room.

No. 3. Make the necessary benches for contact grinding department.

No. 4. Repair sky light, building 6.

No. 5. Finish up the window sash installation in Mr. Raithel's office, building 14.

**Exhaust Systems.**

No. 1. Install blower south of building 3.

No. 2. Extend duct system in basement to blower. (Krause Sheet Metal).

No. 3. Remove the pressure blower from the contact department and put on suitable concrete foundation just outside of the wall.

No. 4. Mr. Krause to connect up with new polishing benches.

No. 5. Install suitable exhaust system for tantalum carbide arc welding, this will be located in the west end of tool room.

No. 6. Install suitable dust extractor for carbon, or graphite jobs in the tool room.

**Electrical Work.**

No. 1. Yard lights to be installed on fence gates and also on buildings as instructed.

**Steam Fitting.**

No. 1. Install unit heaters in Chemical building.

No. 2. Install hot water system in building 15. This has been changed to an electrical unit.

No. 3. Install vacuum pump basement office building.

A. J. Anselm.

1850

*Respondent's Exhibit No. 35.*

462d

RESPONDENT EXHIBIT NO. 35.

6/22/37

Authority to Pay

Date 1-26 1937

Number 52 Name Jasper Leskovec

Reasons For Leaving Laid off

Reduction of force in Nov. 1936

Re-employ.....

Yes.....

No.....

Pay To 1-26-37 Department Chemical

O. K. A. J. Anselm

*Superintendent.*

*Foreman*

LCH

# Respondent Exhibit No. 36



WAUKEGAN, ILL.,

*May 21*

1937

No.

*1*

**FIRST NATIONAL BANK**

70-159

ESTABLISHED 1852

PAY TO THE ORDER OF

*Holy Family Church*

*Ten and 00/100*

DOLLARS

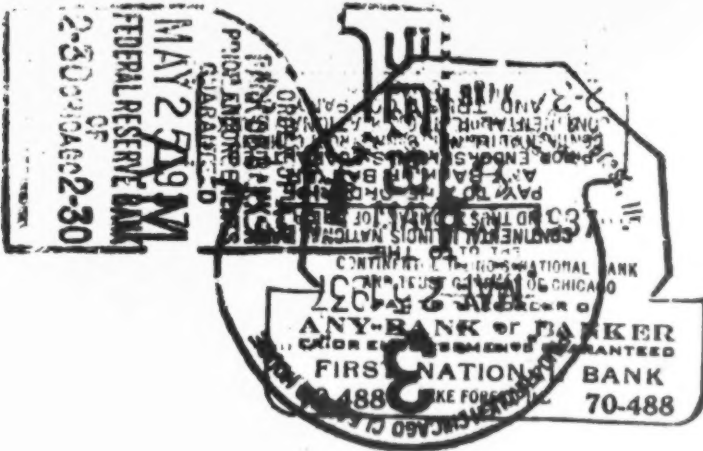
*Have Metal Workers of Chicago*

*H. F. Buisson*

COLLECTIBLE AT PAR THROUGH  
THE FEDERAL RESERVE BANK  
2-30 OF CHICAGO 2-30



**HOLY FAMILY CHURCH**  
1840 So. Lincoln Street  
North Chicago, Illinois







1853

# Respondent Exhibit No. 37

WAUKEGAN, ILL.

June 1

1937 No. 3

**FIRST NATIONAL BANK**

70-159

ESTABLISHED 1852



TO THE ORDER OF

National Office Supply Co. \$ 3.60

three and 60/100

DOLLARS

COLLECTIBLE AT PAR THROUGH  
FEDERAL RESERVE BANK  
OF CHICAGO



Rare Metal Waukegan, Ill.  
L. A. Morris

PAY TO THE ORDER OF  
THE FIRST NATIONAL BANK  
WAUKEGAN, ILL.  
NATIONAL OFFICE SUPPLY COMPANY  
L. A. MORRIS, Treasurer

44

44

44



1855

Respondent Exhibit No. 38



WAUKEGAN, ILL.

*June 1*

1937 No.

*4*

**FIRST NATIONAL BANK**

70-159

ESTABLISHED 1882

PAY TO THE ORDER OF

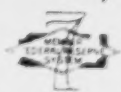
*Best Holt*

\$ *3.00*

*Three and 00/100*

DOLLARS

COLLECTIBLE AT PAR THROUGH  
THE FEDERAL RESERVE BANK  
2-30 OF CHICAGO 2-30



*Per Metal Works of America  
Bristol*

*Best Holt*





466

RESPONDENT EXHIBIT NO. 39.

6/23/37

Smith-Hurd Illinois Ann. Stat., Chap. 38, Sec. 376  
Intimidation

By combinations, etc.

If any two or more persons shall combine for the purpose of depriving the owner or possessor of property of its lawful use and management, or of preventing, by threats, suggestions of danger, or any unlawful means, any person from being employed by or obtaining employment from any such owner or possessor of property, on such terms as the parties concerned may agree upon, such persons so offending shall be fined not exceeding \$500, or confined in the county jail not exceeding six months. (1874, March 27, R. S. 1874, p. 348, div. 1, Sec. 158.)

467

RESPONDENT EXHIBIT NO. 40.

6/23/37

Smith-Hurd Illinois Annotated Statutes, Chap. 38.  
Conspiracy.

Sec. 139. Conspiracy to do an illegal act—Boycott—Black list—Penalty—Marketing associations of farmers, dairymen and fruit growers not included—Common law conspiracy.

“If any two or more persons conspire or agree together, or the officers or executive committee of any society or organization or corporation, shall issue or utter any circular or edict, as the action of or instruction to its members, or any other persons, societies, organizations, or corporations, for the purpose of establishing a so-called boycott or black list, or shall post or distribute any written or printed notice in any place, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business or employment, or property of another, or to obtain money or other property by false pretenses, or to do any illegal act injurious to the public trade, health, morals, police or administration of public justice, or to prevent competition in the letting of any contract by the State, or the authorities of

any courties, city, town or village, or to induce any person not to enter into such competition, or to commit any felony, they shall be deemed guilty of a conspiracy; and every such offender, whether as individuals or as the officers of any society or organization, and every person convicted of conspiracy at common law, shall be imprisoned in the penitentiary not exceeding five years, or fined not exceeding \$2,000, or both.

"Associations, corporate or otherwise, of farmers, gardeners (gardeners) or dairymen, including livestock farmers and fruit growers engaged in making collective sales or marketing for its members or shareholders of farm, orchard or dairy products, produced by its members or shareholders are not conspiracies, contracts, agreements, arrangement of (or) combinations made by such associations or the members, officers, or directors thereof in making such collective sales and marketing and prescribing the terms and conditions thereof are not conspiracies and they shall not be construed to be injurious to the public trade. (1874, March 27, R. S. 1874, p. 348, div. 1, sec. 46; Laws 1887, p. 167, sec. 1; 1919, June 30, Laws 1919, p. 425, sec. 1.)

"If any two or more persons conspire or agree together, or the officers or executive committee of any society or organization or corporation, shall issue or utter any circular or edict, as the action of or instruction of its members, or any other persons, societies, organizations, or corporations, for the purpose of establishing a so-called boycott or black 468 list, or shall post or distribute any written or printed notice in any place, with the fraudulent or malicious intent wrongfully and wickedly to injure the person, character, business, or employment, or property of another, or to obtain money or other property by false pretenses, or to do any illegal act injurious to the public trade, health, morals, police or administration of public justice or to prevent competition in the letting of any contract by the State, or the authorities of any counties, city, town or village, or to induce any person not to enter into such competition, or to commit any felony, they shall be deemed guilty of a conspiracy; and every such offender, whether as individuals or as the officers of any society or organization, and every person convicted of conspiracy at common law, shall be fined not exceeding \$2,000 or shall be imprisoned in the county jail not exceeding one year, or shall be imprisoned in the penitentiary for a

term of not less than one year and not exceeding five years, or may be so fined and so imprisoned in the county jail or penitentiary. (1874, March 27, R. S. 1874, p. 348, div. 1, sec. 46; Laws 1887, p. 167, sec. 1; 1919, June 28, Laws 1919, p. 426, sec. 1.)"

469

## RESPONDENT EXHIBIT NO. 41.

6/23/37

June 21, 1937

Employees Discharged, Layed Off, or Left Company of Own Accord

(Exclusive of those named in Complaint or Answer)

Charles Ambrose	Laid Off	November 28, 1936
Albert Jackolat	Left Voluntarily	November 21, 1936
Alfred Johnstone	Discharged	December 5, 1936
Frank Lodesky	Died	October 14, 1936
Otto Mertins	Left Voluntarily	February 12, 1937
Fred Mesec	Laid Off	November 28, 1936
Tony Turpin	Laid Off	November 28, 1936
Miss LaVerne Salo	Discharged	March 17, 1937
Victor Oliver	Left Voluntarily	March 5, 1937
Russell Pester	Left Voluntarily	June 4, 1937
Victor Slobe	Laid Off	November 28, 1936





## Respondent Exhibit No. 42

## LODGE MEMBERSHIP RECORD

FORM 1

NAME Orlin Swanson  
 ADDRESS 1317 Garden Pl. (Wauk.) INITIATED Feb 1937  
 LODGE OR PLANT #66 (Contact)

AMALGAMATED ASSOCIATION OF IRON, STEEL AND TIN  
 WORKERS OF NORTH AMERICA

S. W. O. C.

Card No. **3060**

1936	DUES	ASSN'T.	RECEIVED BY	1937	DUES	ASSN'T.	RECEIVED BY
AUG.				FEB.			
SEPT.				MAR.			
OCT.				APRIL			
NOV.				MAY			
DEC.				JUNE			
1937 JAN.				JULY			



2998 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIII-C-80) • •

## INTERMEDIATE REPORT.

Upon a charge duly made, and acting pursuant to authority granted in Section 10 (b) of the National Labor Relations Act, approved July 5, 1935, Leonard C. Bajork, agent of the National Labor Relations Board, acting pursuant to its Rules and Regulations, Series 1, as amended, Article IV, Section 1, issued its complaint dated May 25, 1937, against the Fansteel Metallurgical Corporation, respondent herein. The complaint and notice of hearing thereon were duly served upon respondent on May 26, 1937, in accordance with said Rules and Regulations, Series 1, as amended, Article V, Section 1.

The complaint alleged that the respondent was engaged in the production and manufacture of rare metals at North Chicago, Illinois, operating through several subsidiaries, and engaging in interstate commerce; that the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, was a labor organization within the meaning of the National Labor Relations Act; that a unit appropriate for the purposes of collective bargaining consisted of production and maintenance workers of respondent, excluding supervisory, clerical and laboratory employees; that a majority of the employees of this unit had designated the said Lodge 66 as its representative for the purposes of collective bargaining before September 10, 1936; that on September 10 and 21, 1936, and February 17, 1937, respondent refused and failed to bargain collectively with the said Lodge 66; that respondent contracted with and employed, through the National Metal Trades Association, Alfred Johnstone for the purposes of espionage against the union and also employed A. J. Anselm to break up the union and likewise transferred the president of the union from the machine shop to the office for the purposes of intimidation; that respondent on February 17 and 18 discharged certain employees because of their membership in the union and related activities, in violation of the Act; that respondent refused and failed to reinstate certain employees for similar reasons; that respondent discouraged membership in the said Lodge 66 and also caused to be organized and has dominated and interfered with a labor organization known as Rare Metal

Workers of America, Local No. 1; that by reason of the foregoing respondent violated Section 8, subdivisions (1), (2), (3) and (5) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

Thereafter respondent filed its answer, and during the course of the trial was, on motion, allowed to file its amendment to the answer with a reservation of the privilege of noting discrepancies between the answer and the amendment. The answer, as amended, admitted the allegations of the complaint pertaining to the nature of its business and its participation in interstate commerce but denied any knowledge concerning Lodge 66. The answer stated that the maintenance employees should be excluded from the unit appropriate for collective bargaining, denied that a majority of the employees had designated Lodge 66 as their representative, alleged that members obtained for Lodge 66 were obtained through coercion and that the Rare Metal Workers of America, Lodge No. 1, was a labor organization representing approximately 90 per cent of the employees.

The answer further stated that respondent did not enter into any arrangement with the National Metal Trades Association but through that Association did engage Albert Johnstone for the purposes of observing plant production, efficiency, etc., but that he did not interfere with the employees in the exercise of their union rights; that Anselm's reinstatement resulted from a promotion; that the union president was transferred from the machine shop to assist in the development of machine parts; that on February 17, 1937, some of the employees unlawfully seized respondent's buildings and that the Circuit Court of Lake County, Illinois, issued an injunction and a writ of attachment against the said employees who refused to obey the same and were subsequently evicted on February 26, 1937, by the Sheriff; that respondent had discharged only those persons engaged in the unlawful seizure of its buildings; that it had not reinstated certain employees because of their participation in the said unlawful seizure, because of their discharge, and because of the abolition of certain jobs; that other employees were discharged for inefficiency, insubordination, and absence from the plant; that other persons were offered reinstatement and refused and that still other employees were not reinstated because of inefficiency; that the Rare Metal Workers of America, Local No. 1, is a bona fide labor organization and respondent had no connection with its organization, conduct or maintenance.

nance. Respondent denied that it violated the various provisions of the Act.

Before the hearing respondent filed with the Regional Director a motion that the time for filing its answer should be extended to June 7, 1937, and the date of the hearing be adjourned from June 7, 1937, for at least 10 days because of proceedings then being heard before the Circuit Court of

Lake County, Illinois, regarding the violation by respondent's employees of the Circuit Court's injunction order and writs pertaining to the seizure and surrender of respondent's buildings. Accordingly the Acting Regional Director extended the time for filing the answer to June 4, 1937, but denied the motion for adjourning the date of the hearing.

Pursuant to the notice of hearing, the undersigned, as Trial Examiner of the National Labor Relations Board designated to conduct hearings in this case, conducted a hearing commencing on June 7, 1937, and continuing at various intervals through June 25, 1937, at Waukegan, Illinois. Respondent appeared by Levinson, Becker, Peebles and Swiren, acting through Mr. Max Swiren and Mr. Harold M. Keele and by Mr. Sidney H. Block, and participated in the hearing. Lodge 66 appeared by Mr. Lester Collins, its attorney, and likewise participated in the hearing. Full opportunity to be heard, to cross-examine witnesses and to produce evidence bearing upon the issues was afforded to the parties. The parties were granted an opportunity to present oral arguments at the close of the hearing and to file briefs, but did not avail themselves of the same.

At the commencement of the hearing respondent's counsel moved for an adjournment because of the proceedings then being had before the Circuit Court of Lake County, Illinois, involving the alleged seizure of respondent's buildings during February, 1937. It appearing that respondent had ample counsel to present its case in both courts, that witnesses were available in both proceedings, and that the issues were not the same, the motion was overruled by the Trial Examiner. Respondent then renewed an application filed previously with the Regional Director for subpoenas and was informed that this was receiving consideration by the Board in Washington. Respondent also moved for the dismissal of the entire proceedings and the abandonment of the hearing on the grounds of undue prejudice, etc., by the Board but this motion was denied. Respondent then moved that para-

graphs 5 and 6 of the complaint be stricken from the record and this motion was likewise denied.

During a recess a deputy sheriff of Lake County, Illinois, served upon the Trial Examiner and the Board's attorney in the Federal Building, at Waukegan, an alleged injunction order and writ issued by the Circuit Court of that County ordering the Board to refrain from its hearing until the conclusion of the proceedings in the Circuit Court concerning the alleged violation of the injunction of that Court by certain employees during the said seizure of the respondent's buildings in February, 1937. Accordingly the hearing was continued from time to time until the approaching completion of said proceedings rendered it convenient for respondent's counsel to appear before the Trial Examiner. Respondent later moved for the dismissal of so much of the complaint as was inconsistent with the order and decreed entered by the Circuit Court in the above mentioned case. The motion was denied.

At the conclusion of the presentation of the case for the Board, respondent moved that all evidence concerning failure to reinstate employees be stricken because of insufficient evidence regarding their discharge. This motion was denied. Respondent then moved to strike the testimony of Art Holm, Sr., which motion was taken under advisement. Respondent also moved for a dismissal of the entire complaint and its written motion to this effect was written into the record on a stipulation. This motion was made both in whole and also in several parts. On many of these parts the Trial Examiner reserved rulings. However, he overruled those divisions of the motion which requested the dismissal of testimony and complaint regarding failure to reinstate employees, concerning employees who participated in the seizure of respondent's buildings, concerning employees offered re-employment by the respondent, concerning paragraph 3003 of the complaint, concerning the employment of Alfred Johnstone, concerning the solicitation of employees to return to work as individuals, concerning the attempts to dominate the formation of a labor union, and concerning the violations of the Act which respondent urged had become moot by reason of the organization of the Rare Metal Workers Union. The motion for the dismissal of the complaint as a whole was denied. On those parts of the motion for which rulings were not made, rulings were reserved by the Trial Examiner until the end of the hearing and at that time



he again reserved rulings stating that they could be better embodied in the findings and conclusions of the Intermediate Report which would deal with the entire matter comprehensively rather than by individual rulings.

At various places in the record it is shown that objections were made to the taking of certain testimony or the asking of certain questions but the ruling of the Trial Examiner is not shown, although the record itself indicates that the questions were asked and the testimony was admitted. In all such cases the Trial Examiner overruled the objections and allowed the testimony.

Upon the record as thus made, the stenographic report of the hearing and all the evidence, including oral testimony, documentary and other evidence received at the hearing, the undersigned makes, in addition to the above, the following specific findings of fact:

### Findings of Fact.

#### I. The Respondent.

1. The respondent, namely the Fansteel Metallurgical Corporation, is a New York corporation with offices at New York City and also at North Chicago, Illinois, where its 3004 only plant is located. It controls four subsidiary corporations and is and has been engaged in the extraction, refinement, manufacture, sale and distribution of certain non-ferrous rare metals, and products thereof, including especially tantalum, columbium, tungsten, molybdenum, caesium and rubidium. Among other fabricated products, it manufactures contact points for ignition systems, tantalum parts for chemical and rayon industries, battery chargers, molybdenum and special alloy wires for vacuum tubes, etc. It maintains a large research laboratory for further development of processes and products. Its engineers are engaged in careful blueprinting of products and assist its own sales organization which operates throughout the country.

2. The respondent is the only manufacturer of some of its products and in the manufacture of all of its products has few competitors inasmuch as the industry is limited. The value of its products during the calendar year of 1936 was approximately \$1,050,000. On February 17, 1937, it had 311 employees of whom approximately 76 were engaged in ad-

ministrative, supervisory, laboratory, and engineering functions.

3. Some of the raw materials required by respondent are mined and purchased in Australia and other foreign countries; others in different states of the United States. Likewise, its products are sold and transported throughout the United States and to foreign countries. It was stipulated that approximately 70 per cent of the raw materials used by the Corporation originated in states other than Illinois and in foreign countries, and that approximately 70 per cent of the finished product is shipped, largely by mail and express, into states other than Illinois and into foreign countries. It is thus evident that approximately 70 per cent of the raw materials reaches the plant at North Chicago only through interstate commerce and that 70 per cent of the products is sold only through interstate commerce.

3005

## II. The Union.

4. The respondent's president testified that up until September 1, 1936, there had been no attempts from any source to organize the employees of the respondent and had been no labor difficulty or disturbances of any kind until said date. From testimony of the employees, it would appear that such had been the condition up until about July of 1936, and that during this period an open shop had been maintained at the plant, without any attempt at organization, either from within or without.

5. A few craftsmen had belonged to craft unions of the American Federation of Labor but this did not affect the respondent's labor situation. During this period supervisory officials mixed freely with the production employees and laborers at company social functions; employees were allowed to make their individual complaints and desires known to the managerial staff of the company.

6. During June of 1936 some dissatisfaction began to be felt by some of the employees and particularly so because of certain recommendations made for the cutting department by alleged "efficiency experts". During July of 1936 some of the employees took steps to form a labor union. On July 21, 1936 temporary officers and committeemen were elected. On August 5, 1936, the officers were made permanent, were officially installed, and the union was considered by its members as being in effect.

7. On August 14, 1936, additional officers were elected and a charter was presented to the local organization of employees. The membership drive was conducted under the guidance of Mr. Meyer Adelman, Field Directors for the Steel Workers Organizing Committee of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and employees signed applications for membership 3006 in said Amalgamated Association through the Steel Workers Organizing Committee. The charter issued to the Union was dated July 24, 1936, and designated the Union as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America (Board's Exhibit #16). There was not attached to the charter, and Lodge 66 does not have, a copy of the constitution or by-laws of the said Amalgamated Association nor of its own local organization. Mr. Adelman testified that the constitution and by-laws of the Amalgamated Association were in the process of being revised.

### III. The Unit Appropriate for Collective Bargaining.

8. The Union officers testified that eligibility extended to all production workers of the respondent (P. 144 et seq.) Office help, managerial employees, laboratory men, engineers, and persons with authority to hire and fire were excluded. These persons were on a salary basis while all members of the Union work on an hourly pay basis or on a piece-work basis.

9. The respondent's answer admitted, in effect, that such would be the appropriate unit for collective bargaining except for the inclusion of maintenance employees. This exception involved approximately 2 carpenters, 2 millwrights, 2 electricians, 2 steam-fitters, 1 machine oiler and 2 helpers. (Art Holm, Sr.'s testimony). However, it is found that maintenance employees should be included in an appropriate unit, and the appropriate unit includes the production employees of the respondent, as outlined in the preceding paragraph.

10. Carl Swanson, financial secretary of Lodge 66, testified (p. 2174, 2175) that on September 10, and September 21, 1936, the Union had 90 or 91 members. The cards for these members were introduced as Exhibits 18 and 19 for the Board and were later replaced by lists of the signers.

Respondent examined these cards during the hearing. By these cards applicants accepted membership in the A. A.

of I. S. & T. W. of N. A. and designated that organization as their representative for the purposes of collective bargaining.

11. Swanson also testified (P. 159) that the number of respondent's employees eligible for membership on September 10 and 21, 1936, was "not over 160" but his recollection was not based on any substantial evidence and his testimony on other matters as given at that time was subsequently modified. However, Kondrath, the Union president, reached a similar figure (P. 2145) by stating that he counted the time cards in the respondent's rack just before September 10 and found 181 cards from which he deducted 20 foremen and other employees whom he did not consider eligible, which left 161 men as eligible. His deductions were made on the basis of general principles and of a list of men authorized by the respondent to requisition materials. He did not remember the names of all the men deducted.

12. However, the respondent produced these identical cards at the hearing (Ex.'s 43, 44). A count indicated that there were 206 cards on September 10, 1936 from which 11 were deducted for foremen. However, of the remaining 195 cards it would seem that 7 more should be deducted (Holm, Collier, Aigner, Mack, White, Hall and Zene) because of non-employment at that time or supervisory functions (P. 2418 et seq.). An additional 2 employees (Lodesky and Sustersech) were ill and never returned to work. This would make 186 employees in the appropriate unit on September 10, 1936. Respondent's Exhibit 25 indicates 186 hourly production employees on that date. For September 21, 1936, respondent's time cards, excluding foremen, total 197 (Resp. Ex. 45), but from these cards 3 deductions (Worklin, Morgan and 3008 McCann) should be made in addition to the 9 indicated for September 10, which leaves a net total of 185 which is the lowest figure obtainable for September 21. Respondent's Exhibit 25 indicates 189 for that date.

13. It is thus apparent that the Union would need at least 94 members in order to have a majority on September 10, and at least 93 or 94 members for a majority on September 21. It had not more than 91 members on these dates and thus did not have a majority of employees in the appropriate unit on these dates.

#### IV. Unfair Labor Practices.

##### A. Interference with rights of employees.

Statement against the Union on September 10, 1936.

14. During the early part of August 1936, employees Kondrath, Swanson, Ruck, and Dreyer (members of a temporary committee of the Union), conferred with President Aitchison and Messrs. Troxel, Dow, and Henry, officers of the respondent, seeking permission to put up on the company's bulletin board a notice of the meeting of the Union called for August 5, 1936. This conference resulted in a discussion of the reasons for the organization of a union at the plant and the desirability of the same. The company refused to grant the use of its bulletin board for the union notice, although union articles from newspapers were put on the board at different times. The refusal was not based upon any lack of space on the bulletin board, nor any similar reason.

15. On September 10, 1936, employee Kondrath, president of Lodge 66, asked A. J. Anselm, superintendent of the plant, to meet with the Union's grievance committee of twelve members. Mr. Anselm asked that the number be cut down and that the committee be confined to members who had been 3009 with the plant for five years or more (P. 268, 269). The committee met during lunch hour and the number was reduced to six, namely: Kondrath, Swanson, Ruck, Dreyer, Galbavy, and Latz.

16. The committee presented a contract (Board's Exhibit #12) proposed for the company's and the Union's approval, which provided for improvement in certain working conditions, for recognition of the Union on all matters affecting its members, for membership in the Union by all the employees, and for direct payment to the Union from the company of dues for the employees.

17. Mr. Anselm read the contract carefully and then remarked that there wasn't anything in it that could not be granted eventually "except one thing, union recognition" (P. 188); that "the company didn't want to recognize any outside union, or any union that had outside influences" (P. 195-6); that it was the policy of the company not to recognize an outside union (P. 210); that "he could do even better but not in that form of a contract, meaning that type of

contract with the Amalgamated." He said that "the management could never see it; that is, it is an outside union; that they would never accept it as the collective bargaining agency in that particular plant" (P. 270). Swanson (P. 321) and Dreyer (P. 378) testified similarly. Respondent offered no contradictory evidence.

18. Mr. Anselm thus stated that the company would consider and eventually grant improvements in working conditions but that it would not ever consider or grant recognition of the Union. He attempted to justify this position by calling attention to the "check-off" provision in the contract as proposed and by stating that the company did not want to compel its employees to join the Union, nor to compel the payment of dues to the Union. However, it is significant that Mr. Anselm did not propose a contract or any arrangement which would have eliminated the "check-off" system and provided for union recognition. It is likewise significant that he did not question the representation by the Union, or the committee, of a majority of the respondent's employees. Instead, he suggested an Employee Representation Plan and gave to the committee for distribution throughout the factory copies of the plan of the American Steel and Wire Company of Waukegan (Board's Exhibit #13), which he intimated (P. 273) would be acceptable to the company.

19. By said refusal to negotiate with the union leaders and in particular by said announcement of the respondent's policy never to consider or grant recognition of the Union, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

Statement against the Union on September 21, 1936.  
20. On September 21, 1936, the negotiation committee of the Union, with Mr. Meyer Adelman, an organizer, called at the plant for a conference, pursuant to arrangements thought to have been made previously. They were shown into Mr. Anselm's office; on his arrival, Ed. Ruck introduced Mr. Adelman to him. Anselm became hostile, demanded Adelman's card, and asked how he had gotten in. On Adelman's reply that he had come in with the committee and had no card other than the committee itself, Anselm said: "Well, I am not going to meet you. I am not going to meet anybody with you." (P. 232). To the committee Anselm said: "He is



not on my payroll. Therefore, I don't want to have any discussion with him." (P. 274). Anselm then ordered, and perhaps pushed (P. 243), Adelman out of the office. He was "very excited and angry and wanted to know who brought him in. We said nobody particularly, except the committee." (P. 275). This evidence was not controverted by the respondent.

3011 21. After Mr. Adelman's ejection, Mr. Anselm denied any knowledge of an appointment with the committee and the men returned to the shop. The Union had prepared a contract which eliminated the closed-shop and check-off provisions previously objected to by Anselm and provided for a check-off for Union members. This was admitted as Board's Exhibit #17; Mr. Swiren, counsel for respondent, stated it was presented to the company on September 10, 1936 (P. 327), but it was never signed. It was not presented on September 21.

22. In view of the September 10th announcement, this incident of September 21 is a dramatic restatement and enforcement of the company's policy of opposition to the Union and refusal to meet with it. By said ejection of the Union's representative and reannouncement of the company's policy never to negotiate with or recognize the Union, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

#### Office memoranda against collective action.

23. On about September 22, 1936, respondent distributed to all its employees in "inter-office envelopes" two documents. One (Board's Exhibit #14) stated: "The management will not sign . . . any agreement which has for its objective the virtual control of the relations of the company and its various employees. . . . Management reserves the right to discontinue the services of any whose work, abilities or general conduct is not in keeping with the best interests of the business and its employees as a whole."

24. The other document (Board's Exhibit #15) was entitled: "A Plan of Employee Representation Which Has Been Pronounced Successful in a Large Number of Plants." This plan provided for employee election of representatives, for committees containing an equal number of employee



and of management representatives, for employee complaints to be heard by these committees and ultimately by the company's president and then referred to arbitration in case no agreement could be reached. There was no provision for dues and apparently no power for the employee representatives to do anything except receive and adjust complaints.

25. In the light of the preceding events, the issuance of these documents constitutes another announcement of the respondent's policy against a union of its employees. By said distribution during September, 1936, to its employees of statements of the company's policy and the company's desires against the organization of its employees into a union for collective bargaining, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

#### Circulation of petitions against the Union.

26. On September 10, 1936, superintendent Anselm talked with employees Fagan, Dreyer, and Daluga about the contract presented that morning by the Union committee. Fagan testified (P. 544) that Anselm asked him to quit the Union, saying it would be forgotten in two years, and that he wanted to break up the C. I. O. Dreyer testified he heard Daluga and Anselm talking about the former quitting the Union. Anselm denied these statements, but did admit circulating petitions among the employees and getting 125 signatures in favor of the employee representation plan (P. 2123 et seq.) Several foremen helped in this. Respondent did not controvert evidence that acting foreman Hall told employee Zelnick: "You might as well sign up. . . . The Company will never recognize the outside union anyway," (P. 1320) nor that when Hall was talking with Steve Luczo, the latter's boss, Mr. Schardt told him: "Steve, you are better off if you sign for the company union." (P. 1335).

27. The petitions were destroyed by the management; the representation plan was not established. But the campaign of the company again showed its hostility toward Lodge 66. By said circulation of petitions and statements to employees against the formation of a union for collective bargaining, the respondent has interfered with, restrained and coerced its employees in the exercise of the

rights guaranteed in Section 7 of the National Labor Relations Act.

**Membership in National Metal Trades Association.**

28. On August 17, 1936, respondent applied for membership in the National Metal Trades Association. Its application was accepted by resolution of the Association on March 24, 1937, and respondent is now a member, and is governed by its constitution, by-laws and principles.

29. The Declaration of Principles of the Association provide: "While disavowing any intention to interfere with the proper functions of labor organizations; we will not admit of any interference with the management of our business.

\* \* \* This association will not countenance a lock-out, unless all reasonable means of adjustment have failed; neither will the members of this Association deal with striking employees as a body." The by-laws and constitution require members to notify the Association of disagreements or demands of employees "likely to lead to collective action on their part" and provide for the assumption of the defense of the dispute by the Association. Once this defense is so assumed, the Association has complete charge.

30. By said application for, acceptance of, and maintenance of membership in the National Metal Trades Association and subscription to the principles of that Association against the recognition of and the dealing with employees collectively and as a body, the respondent has interfered 3014 with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

**Coercion through espionage.**

31. The evidence that respondent employed Alfred Johnstone through the National Metal Trades Association from August 18 to about December 1, 1936, as a "confidential operative" for the purposes of espionage against the Union, and used him as such, is so overwhelming that little analysis is needed here.

32. Respondent claimed and its president, Mr. Aitchison, testified (P. 417) that Johnstone was represented and was hired as an expert in plant production problems, in the effi-

ciency of plant supervision, and in the efficiency of tool and machine equipment. But this is made absurd by the testimony of the office manager of the National Metal Trades Association, qualifying Johnstone as "an old time machinist, and quite an elderly man". Outside of machinist and tool and diemaker, his only known experience was with the Corporations Auxiliary, a detective agency (P. 487). He was known as a "confidential operative" (P. 478). Even as a workman, he was considered by his foreman to be "very poor. He could not do the work. . . . The man was not mechanic enough." (P. 2067). It was thus apparent that Johnstone was not qualified as an efficiency expert, nor even as a mechanic. He was qualified as a detective and hired for that purpose.

33. Mr. Aitcheson testified he needed Johnstone to report on the foremen and plant conditions because "there was a natural reluctance on the part of the workmen to talk about their foremen and about conditions . . ." (P. 420). He said Johnstone's reports (all of which were destroyed) related primarily to transfers of supervisory personnel, (P. 459, 470) and to improvements in working conditions, i. e., hot water in washrooms, better ventilating system, new toilets, etc. (P. 461). Yet Mr. Aitcheson's previous testimony of June 10 (P. 121 et seq.) indicates no such need, because he was then personally familiar with his men and his shop conditions. He said: "I do not think there has been a day that I have been at the plant, but what I have spent at least a half an hour around the grounds, or in more than one part of the plant, and it has always been easy for anybody to talk to anyone, behind the machines, or in the yard, or in the office."

34. Johnstone joined the Union, was very much interested in the meetings; attended them; inquired as to the number of members; suggested on several occasions that the Union strike. To Aitcheson he submitted at least four reports on union activities, giving the names of the officers and the speakers. All reports were destroyed by Aitcheson immediately upon his receiving and reading them.

35. Respondent's testimony regarding Johnstone was not only inconsistent but was false in at least one instance. In answer to a question as to whether it was necessary for respondent to pay the National Metal Trades Association for Johnstone's services, Mr. Aitcheson replied: "It was not, to the association; it was to Johnstone." He then testified

they paid Johnstone enough in addition to his plant earnings to make a total of \$200 per month. Immediately thereafter Mr. Abbott (the Association's office manager) testified that the Association rendered monthly invoices to the respondent charging \$225 for Johnstone's services and giving credit for his earnings. The company then remitted to the Association and from this amount the Association paid Johnstone enough to make his total of \$200 per month and kept \$25 per month for its own services (P. 488). Respondent did not controvert this testimony.

36. By said employment and use of a confidential operative for the purposes of espionage against the Union, the respondent has interfered with, restrained, and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

#### Discrimination regarding conditions of employment.

37. During the first part of November, 1936, John A. Kondrath, president of the Union and a machinist whose normal duties were in the tool shop, was called to the office and told by plant superintendent Anselm: "You are to work over here from eight o'clock until four o'clock, and during the noon hour you can go and eat your dinner any place you want to, except visiting inside of the plant." (P. 587). He was then shown his place where a lathe and drill press had been located. He was told that when there was nothing to be done, he could read. Magazines were furnished. Thereafter he was paid for the noon hour period in addition to his regular pay for working periods.

38. But respondent's counsel produced from Kondrath the following characterization of his new job: (P. 592, 595) "I wasn't free \* \* \* I meant, when I said I wasn't free, that I wasn't allowed, like the rest of the working men in the shop \* \* \* If I needed a tool, I had to ask Mr. Schultz to go over and get it for me, or if I wanted a wiping rag or something, I couldn't go in there and get it for myself, but I had to ask for service. \* \* \* I was there all alone. \* \* \* (My) chief objection to that job was that (I) was lonesome."

39. Respondent's verified answer stated that Kondrath was transferred "to assist in the development and improvement of machines and machine parts." There was not one iota of evidence to support such a contention, and it was clearly untrue. The above testimony was not contradicted

by respondent and clearly indicates a limitation of Kondrath's duties and a discrimination as to the tenure of employment and other conditions of employment.

40. By said segregation and limitation upon the customary freedom in the work of John Kondrath, respondent has, 3017 by discrimination in regard to hire or tenure of employment or other terms or conditions of employment, discouraged membership in a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

*B. Refusal to bargain collectively*

The Union's majority on February 17, 1937

41. On February 17, 1937, the Union had 154 members, according to testimony of its financial secretary (P. 160, 2175). Board's Exhibits 18, 19 and 20 give the names of 164 employees who signed cards (Board's Exhibit 11) accepting membership in the Amalgamated Association and authorizing the S. W. O. C., its agents or representatives to act for them as a collective bargaining agency. Respondent's Exhibit 41 lists eight employees (and testimony adds thereto employee Leskovec) who had left the company before February 17 by way of death, lay-off, or discharge. Although many of these employees have not paid dues, nevertheless there is no evidence indicating that the remaining 155 employees in any way revoked their agency before February 17, 1937.

42. On this date respondent had a total of 315 employees (Respondent's Exhibit 25), of which 239 were hourly employees in the appropriate unit as described above. Those who had designated the Union as their representatives for collective bargaining thus constituted 65 per cent of the employees in the appropriate unit.

The refusal to bargain on February 17, 1937.

43. At about 9:00 A. M. on February 17, 1937, the bargaining committee met plant superintendent Anselm in his office (P. 277 et seq.). The men told him they were the bargaining committee, representative of the plant, and they would like to have union recognition and would like to meet the management. Anselm answered that that was not necessary, that the company did not want to recognize any 3018



outside union. The men then noticed president Aitcheson going to his office and asked to see him. Anselm conferred with him and reported: "Nothing doing. It stands as it is, everything."

44. At 2:00 P. M. the committee returned for a second conference and Anselm reported: "It is still the same. We can't recognize an outside union. If you fellows want to call it as a shop committee, why, we will give you collective bargaining, but under the leadership of outsiders, and the Amalgamated Association of Iron, Steel and Tin Workers, we will not." After some discussion, the committee withdrew; the company's policy stood. Respondent did not attempt to deny or explain this testimony.

45. The production workers, including maintenance workers, but excluding office help, laboratory men, engineers, managerial employees, and persons with authority to hire and fire, employed by the respondent, constitute an appropriate unit for the purpose of collective bargaining within the meaning of Section 9(b) of the National Labor Relations Act.

46. A majority of said employees had designated the S. W. O. C., its agents or representatives, and more particularly, as such, Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, a labor organization as defined in the National Labor Relations Act, as their representative for the purpose of collective bargaining with respondent in respect to rates of pay, wages, hours of employment and other conditions of employment. On and at all times since February 17, 1937, the said Lodge 66 has been, by virtue of Section 9 (a) of said Act, the exclusive representative of all employees in such unit for the purpose of collective bargaining with respondent in respect to rates of pay, wages, hours of employment and other conditions of employment.

3019 47. Said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America attempted on February 17, 1937, to bargain collectively with respondent, as exclusive representative of respondent's production workers, including maintenance workers, but excluding office help, laboratory men, engineers, managerial employees and persons with authority to hire and fire, in respect to rates of pay, wages, hours of employment and other conditions of employment.

48. The respondent did on February 17, 1937, refuse to bargain collectively with said Lodge 66 as exclusive repre-

sentative of respondent's production workers, as described above, in respect to rates of pay, wages, hours of employment and other conditions of employment.

C. The discharges and cessation of operations.

49. As a direct result of the respondent's refusal to negotiate, the bargaining committee held a meeting and decided to hold the plant as a protest against respondent's refusal to enter into collective bargaining. The machines were shut off, foremen and women were told to go home; non-sympathetic employees were allowed to go. Early in the evening Mr. Anselm and Mr. Swiren, plant superintendent and counsel, respectively, for respondent, appeared in the yard and, in the name of the company, ordered the employees out of the buildings. On their refusal, Anselm and Swiren announced in loud voices that all the men then holding the buildings were then and there discharged. No offer was made to negotiate with the Union.

50. On February 18, 1937, respondent obtained from the Circuit Court of Lake County, Illinois, an injunction order and writ which were posted and read at the plant; on refusal of the men to evacuate, a writ of attachment was likewise obtained and served. The men refused to submit to arrest.

3020 51. Early on February 19, a large force of deputy sheriffs attacked the buildings in an effort to dislodge the workers. They used gas bombs, clubs and a battering ram, but were repulsed by the employees who threw spools, bolts, nuts, bottles of sulphuric acid and similar small articles. The men continued to hold the buildings and received food, bedding, stoves and similar supplies from their friends outside. A few pipes inside the buildings burst from freezing; some of the machines rusted; small articles were moved about and used for articles of defense. But no malicious damage was done to the plant or equipment.

52. Early on February 26, a contingent of deputy sheriffs again attacked the buildings and, after a violent battle, succeeded in overcoming the men and ejecting them from the building. Respondent then began to clean up the building, replace broken windows, employ personnel, and commence production again. On March 1, 1937, it had about 34 to 40 employees on hand; by March 8 about 100 employees, or 40 to 50 per cent of normal; by March 12 it was at approximately normal production. It also pushed the prosecution of the in-



junction and contempt cases in the Circuit Court of Lake County, Illinois, and obtained an opinion, decree, and order (Board's Exhibit 42 and Respondent's Exhibits 1 and 2) fining and sentencing to jail various men found guilty of holding the buildings in violation of the Court's injunction.

53. On February 25, 1937, respondent sent to Art Holm, Sr. a registered letter notifying him of his discharge "effective immediately". Board's Exhibit 35 and testimony indicated his position might have been abolished, but the verified answer and verified amendment thereto state the reason to have been insubordination and inefficiency. Testimony showed that he had been lax in his work and unsympathetic with his superiors at least as far back as January 15, 1936, and probably for much longer. He was an old employee. Yet respondent did not discharge him during that time but 3021 instead discharged him at a time when the plant was not even operating and when Holm was taking an active part in union activities. He was by nature an outspoken man both to his superiors and associates; on the stand he testified: "I naturally took sides—I always take sides with the laboring man, the laboring man's side. I always take his side. I am a laboring man myself." (P. 638). It thus appears that although Art Holm, Sr. did not do effective and responsive work for respondent, nevertheless he had not done so for years, and this was not the reason for his discharge on February 25. The real cause of his discharge and failure to get reinstatement was his active sympathy with the Union.

54. Said Art Holm, Sr. was discharged by A. J. Anselm, an agent of the respondent, on February 25, 1937, and has since been refused employment by respondent for the reason that the said Art Holm, Sr. joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

55. By said discharge and refusal to employ said Art Holm, Sr., respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and has also by said discharge and refusal discouraged membership in the labor organization known as said Lodge 66.

D. Coercion through reinstatement of employees individually

56. From about February 26 until at least March 12, 1937, respondent contacted and employed both old and new person-

nel, with individual offers of reemployment. Employees 3022 were approached at their homes, at the plant, or by phone through foremen, straw-bosses, a forelady and in some cases (Wells, Crump, Small) by so-called "loyal" employees. All such contacts were made with individuals; the union was ignored completely; informal offers of reinstatement were made to the employees conditioned on their return to work. Back pay for the inoperative period of the plant was offered. Some raises were given. Many employees accepted these offers and the back pay, but many of the Union members remained loyal to the Union and refused to return. Of those who did not get reemployment, respondent's amendment to the answer names 22 who were offered reinstatement; the evidence proves 17 received offers and indicates there were many others who were not involved in the hearing.

57. During this period when respondent was approaching individual employees, including at least 17 strikers, with offers of reinstatement as individuals, the Union was still demanding recognition and collective reinstatement. It remained on strike, maintained a picket line, and a striker's roll. It asked the company directly and through mediators for recognition and collective bargaining and was refused. It urged Union members to refuse reemployment until the Union was recognized and the group as a whole was reinstated.

58. The affirmative action of respondent in seeking out those employees it wanted back not only indicated to others the futility of applications by them for work, it also formed part of respondent's campaign to break the Union. By refusing to recognize or negotiate with the Union and at the same time enticing back individual members with offers of back pay and raises, it attacked the heart of collective action.

59. By approaching individual employees and offering to them individual reinstatements, with offers of back pay and increases in pay in many instances, during a period 3023 when the Union was attempting to bargain collectively on these same matters, the respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act.

#### E. Refusal to bargain collectively.

60. On March 3, 1937, employees Swanson, Latz and Dreyer asked respondent, in writing, (Board's Exhibit 25 A) to discuss with them, as the Union's committee, the question of

collective bargaining and recognition of the Steel Workers Organizing Committee as the sole bargaining agency for its employees. This committee represented a majority of the workers at this time. Nevertheless respondent refused recognition and refused to bargain with the Union's committee. It declined to discuss the matter orally and stated its refusal in a letter which is self-explanatory (Board's Exhibit 26).

61. On March 5, 1937, the same Union committee presented respondent with a proposal for recognition of the Union for the purpose of collective bargaining for its members (Board's Exhibit 26A). The Union still represented a majority of the employees. No Union members had presented resignations of their memberships, nor cancelled their authorizations for collective bargaining, although some had returned to work. Again the company refused recognition and negotiation, calling attention to its previous refusal and to its original position. The remarks at the conference were taken down by a stenographer (Board's Exhibit 27) and the refusal to bargain was set forth in another letter. (Board's Exhibit 28). These documents are self-explanatory.

62. On March 18, 1937, John F. Harris volunteered as mediator and mailed to respondent an offer (authorized by the Union) to remove the pickets if the company would recognize Lodge 66, refrain from discriminating against its 3024 members, and select a committee to discuss mutual differences. Respondent claimed it never got the letter and rebutted the presumption of receipt.

63. It has been found above that the production employees of respondent, including maintenance workers, but excluding office help, laboratory men, engineers, managerial employees and persons with authority to hire and fire, constituted an appropriate unit for the purpose of collective bargaining within the meaning of Section 9 (b) of the Act; that a majority of said employees have designated the S. W. O. C. and their representatives, and more particularly Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, a labor organization as defined in the Act, as their representative for the purpose of collective bargaining with respondent in respect to rates of pay, wages, hours of employment and other conditions of employment; that on and at all times since February 17, 1937, the said Lodge 66 has been, by virtue of Section 9 (a) of said Act, the exclusive representative of all employees in such unit for the purpose of collective bargaining with the respondent.

64. The said Lodge 66 attempted on March 3, 1937, and again on March 5, 1937, to bargain collectively with the respondent as exclusive representative of respondent's production workers (as above described) in respect to rates of pay, wages, hours of employment and other conditions of employment. The respondent on March 3, 1937 and March 5, 1937, refused to bargain collectively with the said Lodge 66 as exclusive representative of respondent's production workers (as above described) in respect to rates of pay, wages, hours of employment and other conditions of employment.

F. Discrimination in tenure of employment.

Refusal to reinstate certain eleven employees.

65. The pleadings indicate and the evidence shows that the eleven people named below have not been reinstated 3025 by respondent since the reopening of its plant. Respondent's answer, and amendment thereto, state that "it affirmatively requested (the people named below, among others) to return to work and resume their duties and that they refused so to do." This is the reason given for their non-reinstatement.

66. However, as pointed out in Finding 56, supra, these offers were made to employees as individuals during the time the Union representing these individuals was on strike and negotiating for recognition and collective bargaining. Acceptance of the offers necessarily involved withdrawal of support from the Union's activities; for this reason they were refused. When Lindberg was offered his job, he replied: "No, there is a strike on." (P. 811) At the hearing he said he was still on strike. Arvo Romppaine refused his offer because: "I considered myself a striker there. . . . I didn't want to go back to work without union recognition." (P. 808). Robert Pratt refused because they didn't recognize the Union, and said: "I never went through a picket line in my life and I am getting too old now to start with it." Bessie Luczo admitted on cross-examination she would not have gone back, if offered reemployment, because: "I would be scabbing if I went back." (P. 1174).

67. Such was the attitude of the others. All were members of the Union. Some had participated actively in the strike. All realized that the offers were conditioned upon

their abandonment of union activities and involved a renunciation of their rights of collective bargaining; they considered such offers to be refusals to reinstate on a union basis. At least one of those who accepted such an offer interpreted it likewise, saying, when asked if he had resigned from the Union: "Well, I guess I have, because I went back to work." (P. 1764).

68. The employees receiving such "offers" and not yet reinstated are as follows:

3026 Roy Brown	George Mondro
Herman Latz	Frank Moxey
Otto Latz	Robert Pratt
Clarence Dreyer	Isabelle Recktenwald
Eric Lindberg	Edward Schuman
George W. Smith	

69. The eleven employees last above named have been refused employment by the respondent for the reason that they joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

70. By said refusal to employ the said employees, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said employees, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

Respondent's refusal to reinstate certain thirty-one employees.

71. The pleadings indicate and respondent's stipulation, marked as Respondent's Exhibit 7, states, and also the evidence shows that the thirty-one people named below have not been reinstated by the respondent since the reopening of its plant in March of 1937. Respondent's answer and amendment thereto stated that these employees were not reinstated because of their participation in the violence and allegedly unlawful seizure of the company's buildings, because of their discharge for proper cause and because of the abolition of



certain jobs in respondent's plant. However, there was no evidence indicating in any way the abolition of the jobs 3027 of those hereinafter named, so that the only alleged reason for their non-reinstatement is their participation in seizure of the company's property and their discharge for the same. This participation was proven.

72. However, the evidence indicates conclusively that respondent did actually reemploy, with back pay and with some raises, a substantial number of those participating in the seizure, or sit-down strike. All of the production workers called by respondent as witnesses (six in number) were in the sit-down and were reemployed. Respondent's letter of March 3, 1937 (Board's Exhibit 26) announced: "We are giving favorable consideration to the applications for reemployment filed by a number of these men (who) participated. \* \* \* in the violent seizure of our plant." At least eleven other witnesses testified they were in the sit-down strike and received offers of reinstatement which they refused. Respondent's president released to the Waukegan News-Sun an announcement (Board's Exhibit 34) saying that he had sent out approximately 238 checks to employees "who have returned to work" for their back pay during the inoperative period of the plant.

73. Respondent's stipulation filed as Respondent's Exhibit 7 listed on pages 8, 9 and 10, 94 employees who participated in the seizure of the company's plant. Of these 94 employees, respondent stipulated that 59 men have not been reinstated since the reopening of the plant, but that 35 of the 94 people, or 37 per cent of the total, have since been reemployed by the respondent. It is thus clear that respondent did not have a rule against reinstating employees who participated in the alleged seizure of its buildings, inasmuch as it employed over one-third of these people. Respondent's plant superintendent Anselm verified this conclusion by his testimony: "I employed a lot of people who seized and held the plants." (P. 1964). It therefore appears that participation in the seizure and retention of the buildings was not respondent's real reason for its failure to reinstate these employees.

3028 74. All of these men were members of the Union: all were active enough to participate in the strike and to remain loyal afterwards; some were officers and committee members; this was known to respondent's agents. It therefore appears that the reason for their non-reinstatement was not that participation in the seizure of the buildings, because

other participants were hired; the reason was their continuing sympathy with the Union and its activities.

75. With the exception of Fred Hensley who has been ill, these men have been able and willing to work ever since the disturbance. Those herewith concerned are:

Steve Ark  
Nick Bankowisch  
Joseph Chudy  
W. D. Crump  
John Cudith  
Charles E. Fulkerson, Jr.  
Frank Furlan  
Angelo Galbavy  
John Grom  
Fred Hensley  
Tony Kancilja  
Edward Kaucic  
John Kondrath  
Frank Latz  
Joseph Lima

Steve Luczo  
Paul Makovec  
Nate Mogel  
Frank Museck  
Anton Nagode  
Merritt Pratt  
Bartol Puntarich  
Joseph Richveis  
Andrew Rode  
Alvar Romppaine  
Ed Ruch  
John Starovich  
Alan White  
Frank Zelenick  
Mike Zelenick

76. The thirty employees last above named have been refused employment by the respondent for the reason that the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

77. By said refusal to employ the said employees, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of 3029 the National Labor Relations Act, and by said refusal to employ said employees, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

Refusal to reinstate certain for employees.

78. The pleadings indicate and the evidence shows that, in addition to the employees named above, four other employees were not reinstated by the respondent after it reopened its plant in March, 1937. Respondent in its verified answer stated they were not hired because of participation in



the violent seizure of the buildings, etc. In respondent's verified amendment to its answer it again gave this reason and then also gave the additional reason that it had affirmatively offered these men reemployment which was refused by them. It is difficult to understand how respondent could set up a rule barring all participants from reemployment and at the same time offer those participants that reemployment. It is more difficult to understand how respondent's president could swear on oath to the truthfulness of both reasons.

79. The evidence indicates that these four men did participate in the seizure of the buildings and did receive indirect "offers" of reemployment. But it is clear that the "offers" were really "refusals" and that participation in the seizure was not the reason for their non-reinstatement. It has been shown that the respondent's reason for not reinstating because of their participation in the alleged seizure and retention of its buildings was not the real reason for respondent's failure to reemploy. The inaccuracy of this reason applies in regard to the failure to reemploy the four employees herewith concerned, and is supported by the inconsistency of the reasons advanced for these four people in particular. All of the men herewith concerned belonged to the Union, participated actively in its affairs, and were known to respondent because of their union activities. It is, therefore, clear that this Union membership and activity was the reason for respondent's not reinstating said employees.

80. The four employees concerned herewith are: John W. Jackoway, Arvo Romppaine, Luther Small, Paul Wells.

81. The four employees last above named have been refused employment by the respondent for the reason that the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

82. By said refusal to employ the said employees, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said employees, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

Refusal to reinstate certain five employees.

83. The pleadings indicate and the evidence shows that, in addition to the foregoing employees, five girls have not been reinstated by the company since reopening its plant. Respondent's verified answer states these five girls (among others) were not reinstated "solely and exclusively by reason of their inefficiency". These girls are as follows: Fern Gartley, Evelyn Graimer, Vivienne Johnson, Tillie Mesec, Marguerite Seifert.

84. Respondent's evidence concerning Miss Graimer consisted of her supervisor's testimony, to wit: "I can't remember anything about her particularly, only that as working in a group, or working in team with two people, she was efficient, but I do not know what she could accomplish personally, 3031 alone, on some of the jobs that might be assigned here."

(P. 1975) Regarding Misses Gartley, Johnson and Seifert, respondent introduced statistics showing them low in some aspects of their work. Their supervisor, Miss Atkinson, testified in general that they were inefficient. However, she said she had asked for the return of Tillie Mesec (P. 2027), thus refuting respondent's answer in this regard. Also Miss Seifert testified (P. 1214) that foreman Shultz telephoned her about 11 o'clock at night and said they would call her back when they needed her, thus casting doubt on the inefficiency charge concerning her.

85. However, respondent refuted completely the inefficiency charge by its verified amendment to the answer in which its president stated on oath that it had "affirmatively requested (the above named girls and others) to return to work and resume their duties and that they refused so to do." Clearly respondent would not affirmatively request employees to return to work and at the same time decide not to rehire those same employees "solely and exclusively by reason of their inefficiency". They were either good enough to rehire, or they were not. Both of respondent's statements were made on oath by its president; one of them must be false—perhaps both.

86. All of the girls belonged to the Union; all testified they had not been criticized because of their work. In most cases they thought their superiors knew of their union membership. Forelady Atkinson testified (P. 2024) that she didn't like the idea of an outside union: "We always got along without one,

and I didn't see any reason for one"; she thought it was not a good idea for the men to get tangled up with someone on the outside. This dislike of union membership seems to be the real reason for respondent's failure to reinstate the five girls named above.

3032 87. The five employees last above named have been refused employment by the respondent for the reason that the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

88. By said refusal to employ the said employees, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said employees, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

#### Refusal to reinstate Bessie Luczo.

89. The evidence shows that Bessie Luczo was not reinstated. Respondent answered it was because of inefficiency, but introduced no supporting evidence. She testified that she had worked for respondent for one and a half years; had received two pay increases; had been told by her boss on February 17 that he would phone her to come back when everything was fixed up. There are no grounds for the inefficiency charge.

90. Although she did not join the Union until after the sit-down strike, nevertheless her father was among those holding possession of the buildings, and she quickly became an active member. At the hearing she testified she was recording secretary of the Union and that she would not have returned to work—if offered—because that would have been scabbing. These union activities were the reason for respondent's not reinstating her.

91. Bessie Luczo has been refused employment by the respondent for the reason that she joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the

purpose of collective bargaining and other mutual aid and protection.

92. By said refusal to employ Bessie Luczo, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said Bessie Luczo, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

*Refusal to reinstate Bissonette and Fellens.*

93. The pleadings and evidence show that Joan Bissonette and Frances Fellens were not reinstated after the reopening of the plant. Respondent answered it did not reinstate them because of their inefficiency. Bissonette's statistics (P. 2002) show that on one grade of work she was 1/16 behind the "high girl" and in another grade  $\frac{1}{2}$  behind the "high girl" for February. All averages rose in March, when she was not allowed to work. Her forelady testified "the quality of her work was fair, but she was very slow \* \* \* and she needed supervision." (P. 2009) The figures indicate she wasn't the fastest girl, but she wasn't far behind and certainly not inefficient as to quality.

94. Frances Fellen's supervisor testified regarding her (P. 1974): "Well, I had her name down as being efficient when she was on piecework. \* \* \* On hourly work \* \* \* she did not seem to put forth her best efforts to my knowledge. I did not want her back for several reasons. It seemed like she was always agitating trouble. She seemed to make remarks about this one, and the other one, and I think when that tension is in the department, one can not do the 3034 work that is required of them." But she was never called in after they abolished piecework (P. 1978) and got little experience on the contact point assembly work done on an hourly basis. There was no opportunity for the supervisor to judge her on an hourly basis performance.

95. Fellens had worked for respondent for two years; joined the Union in August, 1936; had never been criticized for her work. Bissonette had worked nine months for respondent; it was her first job; she joined the Union in November, 1936; had never been criticized for her work. After the reopening of the plant, she telephoned her forelady

employees instead of former male employees. Respondent claimed a consequent reduction in costs (P. 1845; Respondent's Exhibits 21, 22). The evidence showed that the cost was reduced approximately 50 per cent, but that the wages of 75c per hour which the men had received were reduced to 40c per hour for the new women employees, which was raised to 45c per hour after they became experienced. This accounted for the savings, inasmuch as the women did about the same amount of work as the men employees, or perhaps somewhat less, for not more than 45/75 of the original pay (P. 1957). These pay reductions are the only substantial change in the work of this department. The jobs remained the same and were not abolished.

100. Respondent also claimed that these men were not reinstated because of their participation in the seizure of the plant. These men were identified with this seizure, but the falsity of this reason, as pointed out above for other employees, applies likewise to these men. Respondent did not exclude employees who had participated in the seizure 3036 of the plant; some other reason must explain its failure to reinstate these employees.

101. All these men belong to the Union; some of them were exceedingly active in the Union, including participation in the strike and in picketing. This was known to the respondent's agents. Furthermore, none of these men were given any consideration by the company for any other openings that might develop in other departments (P. 1962 et seq.) The disconnection of their services was desired. It is clear that the reason for the non-reinstatement of these men was not the abolition of their jobs, nor their participation in the seizure of the buildings, but was instead their membership and participation in the affairs of the Union.

102. The men herewith concerned are as follows:

Grinders	Spinners	Cutters
Ed Brunke	Frank Scheuer	Leo P. Daluga
Al Bunton	Elmer Luke	Harold Dreyer
Phil Graimer		Charles E. Fulkerson, Sr.
Stanley Grum		T. E. Fagan
Victor Hertel		William D. Magness
John Praski		

103. The thirteen employees last above named have been refused employment by the respondent for the reason that



the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

104. By said refusal to employ the said employees, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said employees, respondent has also discouraged membership in the labor organization known as Lodge 66 of 3037 the Amalgamated Association of Iron, Steel and Tin Workers of North America.

#### The Maintenance Department.

105. The pleadings indicate and the testimony shows that eleven employees in the maintenance department were not reinstated by the respondent after the opening of its plant in March, 1937. Respondent stated in its verified answer and amendment thereto that these men, hereinafter named, were not reinstated because of their participation in the seizure of the plant and also because their jobs were abolished. The falsity of the participation in the seizure of the plant as a reason for the failure to reinstate employees is as relevant in these instances as in those cases pointed out above. Respondent employed a substantial number of men who participated in the seizure and this was not the true reason for its failure to reinstate others.

106. Respondent's officials testified that a great deal of the work formerly performed by the maintenance department had been let out on contract to carpenters, electricians and others in order that respondent could procure these services with less effort and less cost than that required by the use of regular employees (P. 1854; Respondent's Exhibit 23). Although the evidence as to any actual savings arising from the use of contracts is exceedingly meagre, nevertheless it is not clear that respondent had any other reason for obtaining this work through independent contractors rather than through employees. Certainly it was shown that the work was not being performed by any other employees, either new or old, except for four men who had been retained for minor services.

107. However, no consideration was given any of these

men for any other vacancies that the company might have in its various departments, despite the qualifications and previous service of these men with the company. Plant superintendent Anselm said this lack of consideration 3038 was based upon their participation in the seizure of the company's buildings (P. 1962), but the falsity of this reason has already been pointed out above. All of these men likewise belonged to the Union and likewise were exceedingly active in its affairs. In fact, Carl A. Swanson and others of this group were leaders in the Union. These facts were well-known to the respondent. A number of new employees were hired by the company in different capacities throughout the department. Many of them had to be trained for their new work. The number of these new employees was not revealed, but the evidence was clear that the reason respondent did not give the men in this department preference or even consideration for these new jobs was their membership and participation in union activities. It is equally clear that at least some of these men could have been rehired in other positions, if the respondent had so desired. The employees herewith concerned are as follows:

Carpenters

Andrew Anderson  
 Ted Christianson  
 Eugene D. Hendee  
 Art Holm, Jr.  
 Oscar Johnson  
 Carl A. Swanson

Electricians

Lester Crump  
 Vincent Ditmeyer  
 Charles Warner

Electrician's Helper

Jerome Camernicke, Jr.

Steamfitter

Fred Yaeger

108. The eleven employees last named above were refused employment and were discriminated against in the employment of personnel by the respondent for the reason that the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

3039 109. By said refusal to employ the said employees and by said discrimination against said employees in the employment of personnel, respondent has interfered with, re-



strained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and has discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

**Tool room employees.**

110. The pleadings and the evidence are practically the same for five employees in the tool room department as for those in the maintenance department, as above discussed. Respondent stated that these men were not reinstated because of their participation in the seizure of the buildings, but this reason was false. Respondent stated that they were not reinstated for the additional reason that their jobs had been abolished because a great part of the work was being let out on contract (P. 1855). There was evidence to support this contention.

111. However, these men were likewise given no consideration for the vacancies that developed in different departments of the company and were filled by new personnel. The reason for their receiving no consideration for such openings was their membership and participation in union activities.

112. The men herewith concerned are: Raymond DuBois, Theodore Ohlson, Joseph Aigner, Joseph Petraitis, Harry H. Rayner.

113. The five employees last named above were refused employment and were discriminated against in the employment of personnel by the respondent for the reason that the said employees joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

3040 114. By said refusal to employ the said employees and by said discrimination against said employees in the employment of personnel, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and has discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

**Lack of discrimination in non-reinstatements.**

115. Respondent's answer stated that Joseph Hoff was not reinstated because he participated in the seizure of the buildings and abolition of his job. The evidence showed that he did not participate in the seizure. The amendment to the answer accordingly abandoned the above reason and substituted that of inefficiency. Such change of reasons by respondent is not seemly, but in this case was without prejudice.

116. Although Hoff joined the Union in August, 1936, nevertheless he was not active in it; he did not remain for the strike but left with employees "loyal" to the company. Furthermore, he was 74 years old and himself testified he was let go because he was too old. Such is found to be the reason.

117. Jasper Leskovec joined the Union in July, 1936; was laid off in November, and discharged in January, 1937. Jack Taylor was not a member of the Union during the strike, took no part in it but did join on March 11, 1937, at which time respondent had practically completed the employment of its personnel. The union memberships and activities of these two men were not the reasons for their non-reinstatement and there was no discrimination in this respect.

118. There was no evidence introduced concerning the reasons for discharge and/or non-reinstatement of the following employees:

3041 Virginia Butterfield  
Gus Canclakes  
George Kallio

David Nostell  
Peter Skarbalus  
Victor Weatherhead

Elsworth Peters

**G. Domination of a labor organization.**

119. Respondent's reemployment task was practically completed by March 12, 1937. By the first of April there came from an unknown source a sudden desire for an "independent union". A committee visited plant superintendent Anselm who said: "Under the labor act you employees have a right to (organize)." (P. 1463). Accordingly notices of a meeting were posted; on April 15 the meeting was held in building #14; about 200 employees attended and voted about 185 to 15 for an independent union. On April 17 application was made for an Illinois State charter of incorporation; on the 19th it was granted. In the meantime about 220 signatures were ob-

tained on petitions for membership in the new union. On the return of the charter, another meeting was held in building #14; nominations for permanent officers were made from the floor; subsequently ballots for officers were cast in boxes placed under the company's time clocks. A meeting was held later in May in Holy Church Hall; a fourth meeting was held in the North Chicago auditorium during June. Officers have been installed; some dues have been collected; by-laws have been adopted; a negotiating committee is being selected. On May 27, 1937, respondent signed a contract for exclusive bargaining with the independent union.

120. Respondent not only consented to the organization of its employees; it allowed the use of its bulletin boards for the April 15 meeting; it furnished 12 typed notices of the April 15 meeting for the bulletin boards and 300 mimeographed ballots (P. 1543). It furnished building #14 for the meeting. After the meeting the ballots were sealed and placed in the respondent's vault. Respondent then loaned employee Sylvin \$10.00 (P. 1473) with which to apply for a corporation charter for the union. On the return of the charter, respondent again supplied typed notices and the use of company bulletin boards to advertise the meeting where officers were nominated (P. 1457). Respondent again furnished building #14 for the meeting-place. For the election of officers respondent again furnished its bulletin boards to post the slate of nominees and notices of the election. Ballots were printed or mimeographed. Johnson said Berkquist handled that (P. 1476) but Berkquist said they were obtained by Johnson, Sylvin and Weddell. The election was held on respondent's property; ballot boxes were installed under the clocks in buildings #3 and #5. After the voting, the ballots were placed in respondent's safe (P. 1480).

121. Foreman Simms told employee A. R. Johnson "that he hoped the organization would go through O. K.; that he would like to see it work out". (P. 1488). The membership reached 226 out of 256 eligibles by May 26 (P. 1532); on that date the new union presented its cards to respondent's counsel who had them photostatted, declared "that undoubtedly they had a majority, and under the law they deserved recognition, and we would recognize them." (P. 1531). Respondent did so (P. 1536). Thus in about one and a half months the "independent union" organized, got 88 per cent of the appropriate unit into its membership, and won recognition from the employer.

122. The by-laws (Board's Exhibit 42) designate the new union as Rare Metal Workers of America, Local #1; any member is allowed to "bargain as an individual with the employer as to rates of pay and wages or working conditions, or any other matter pertaining to his or her employment"; yet "any member . . . who shall feel aggrieved (about any of the above) shall submit such grievance in writing to . . . the

Executive Board (of the union) whose action shall be 3043 final." A 75 per cent vote of the entire membership is required for a strike, and: "This organization cannot affiliate without a vote of 75% of all the members thereof."

123. In themselves such facts may not seem significant; but they become indicative when contrasted with the history of Lodge 66 which was denied the use of respondent's bulletin boards, was ejected from respondent's offices, was repeatedly confronted by hostile statements and a fortiori would never have conceived of such gratuities as mimeographing, typing, vault space, hall space, and a loan of money to pay the incorporation filing fee. The men of Lodge 66 were spied upon by a professional "confidential operative" and intimidated by arbitrary infringements upon the liberties of their president. The Rare Metal Workers were welcomed into the office and given repeated favors. Lodge 66 had to fight seven and a half months to get a 65 per cent majority of the workers and was then refused even an audience by respondent; Rare Metals got 185 supporters by merely posting company-prepared notices on company bulletin boards for "a day or two days", (P. 1466) and received instant "recognition" from respondent. Lodge 66 has outside affiliations; Rare Metals has practically guaranteed respondent freedom from "outside influences" by its by-laws.

124. Respondent has instigated, guided and dominated the Rare Metal Workers Union in its formation and in its administration; it has contributed financial and other support to it and to its leaders. It is therefore found that the respondent, by its officers and agents, formed and sponsored the Rare Metal Workers of America, Local #1, as a labor organization of its employees. The said Rare Metal Workers of America, Local #1, is a labor organization within the meaning of the National Labor Relations Act.

125. The respondent is dominating and interfering with the administration of a labor organization of its employees by the activities hereinbefore set forth, and is contributing 3044 financial and other support to said labor organization.

## V. Interstate Commerce.

126. As indicated above, respondent sold products in 1936 totalling \$1,050,000 in value. Approximately 70 per cent of these sales, and also 70 per cent of its purchases leave and reach its plant only through interstate commerce.

127. The unfair labor practices of respondent described above caused a complete shut down of respondent's plant from February 17 through 26. "There was a stoppage of shipping into the plant and shipping away from the plant, except for the stuff that had been ordered, and that was stopped."

128. It is therefore found that the activities of the respondent set forth above, occurring in connection with its operations as described above, have a close, intimate and substantial relation to trade, traffic and commerce among the several states and have led and tend to lead to labor disputes burdening commerce and the free flow of commerce.

## Conclusions and Recommendations.

Upon the basis of the foregoing findings of fact, the undersigned hereby determines and concludes:

1. Respondent by (1) its statement of September 10, 1936, against the Union; (2) its statement and action of September 21, 1936 against the Union; (3) its office memoranda issued against the Union in September, 1936; (4) its circulation of petitions against the Union on and after September 10, 1936; (5) its membership in the National Metal Trades Association; (6) its espionage against the Union through a professional "confidential operative"; (7) its discrimination regarding the conditions of work of the Union president, John A. Kondrath; (8) its refusal to bargain collectively on February 17, 1937, and thereafter; (9) discharging and refusing to employ Art Holm, Sr.; (10) its coercion through the reinstatement of employees as individuals; (11) its refusal to bargain collectively on March 3, 1937, March 5, 1937, and thereafter; (12) its discrimination in tenure of employment through its refusal to reinstate certain employees, to wit: Roy Brown, Herman Latz, Otto Latz, Clarence Dreyer, Eric Lindberg, George Mondro, Frank Moxey, Robert Pratt, Isabelle Recktenwald, Edward Schuman, George W. Smith, Steve Ark, Nick Bankowisch, Joseph Chudy, W. D.



Crump, John Cudith, Charles E. Fulkerson, Jr., Frank Furlan, Angelo Galbavy, John Grom, Fred Hensley, Tony Kancilja, Edward Kaucic, John Kondrath, Frank Latz, Joseph Lima, Steve Luczo, Paul Makovec, Nate Mogel, Frank Mussek, Anton Nagode, Merritt Pratt, Bartol Puntarich, Joseph Richveis, Andrew Rode, Alvar Romppaine, Ed Ruch, John Starovich, Alan White, Frank Zelenick, Mike Zelenick, John W. Jackoway, Arvo Romppaine, Luther Small, Paul Wells, Fern Gartley, Evelyn Graimer, Vivienne Johnson, Tillie Mesec, Marguerite Seifert, Bessie Luczo, Joan Bissonette, Frances Fellens, Ed Brunke, Al Bunton, Phil Graimer, Stanley Gram, Victor Hertel, John Praski, Frank Scheuer, Elmer Luke, Leo P. Daluga, Harold Dreyer, Charles E. Fulkerson, Sr., T. E. Fagan, William D. Magness, Andrew Anderson, Ted Christianson, Eugene D. Hendee, Art Holm, Jr., Oscar Johnson, Carl A. Swanson, Lester Crump, Vincent Ditmeyer, Charles Warner, Jerome Camernicke, Jr., Fred Yaeger, Raymond DuBois, Theodore Ohlson, Joseph Aigner, Joseph Petraitis, Harry H. Rayner; (13) its domination and interference with the labor organization known as Rare Metal Workers of America, Local #1, and by contributing financial and other support to it, and by interfering with, restraining and coercing its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as set forth in the above findings of fact, has engaged and is engaging in unfair labor practices affecting commerce within the meaning of Section 8, subdivision (1) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

3046 2. Respondent by dominating and interfering with the labor organization known as the Rare Metal Workers of America, Local #1, and by contributing financial and other support to it, as set forth in the above findings of fact, has engaged and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8, subdivision (2) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

3. Respondent by discharging and refusing to employ Art Holm, Sr., and by refusing to employ Roy Brown, Herman Latz, Otto Latz, Clarence Dreyer, Eric Lindberg, George Mondro, Frank Moxey, Robert Pratt, Isabelle Recktenwald, Edward Schuman, George W. Smith, Steve Ark, Nick Bankowisch, Joseph Chudy, W. D. Crump, John Cudith, Charles E. Fulkerson, Jr., Frank Furlan, Angelo Galbavy, John Grom,

Fred Hensley, Tony Kancilja, Edward Kancic, John Kondrath, Frank Latz, Joseph Lima, Steve Luczo, Paul Makovec, Nate Mogel, Frank Museck, Anton Nagode, Merritt Pratt, Bartol Puntarich, Joseph Richveis, Andrew Rode, Alvar Romppaine, Ed Ruch, John Starovich, Alan White, Frank Zelenick, Mike Zelenick, John W. Jackoway, Arvo Romppaine, Luther Small, Paul Wells, Fern Gartley, Evelyn Graimer, Vivienne Johnson, Tillie Mesec, Marguerite Seifert, Bessie Luczo, Joan Bissonette, Frances Fellens, Ed Brunke, Al Buntton, Phil Graimer, Stanley Grum, Victor Hertel, John Praski, Frank Scheuer, Elmer Luke, Leo P. Dalugra, Harold Dreyer, Charles E. Fulkerson, Sr., T. E. Fagan, William D. Magness, Andrew Anderson, Ted Christianson, Eugene D. Hendee, Art Holm, Jr., Oscar Johnson, Carl A. Swanson, Lester Grump, Vincent Ditmeyer, Charles Warner, Jerome Camerniche, Jr., Fred Yaeger, Raymond DuBois, Theodore Ohlson, Joseph Aigner, Joseph Petraitis, Harry H. Rayner, and thus discouraging membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8, subdivision (3) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

4. Respondent by refusing to bargain collectively on February 17, 1937, March 3 and March 5, 1937, and at all times between and since said dates, as set forth in the above findings of fact, has engaged in and is engaging in an unfair labor practice affecting commerce within the meaning of Section 8, subdivision (5) and Section 2, subdivisions (6) and (7) of the National Labor Relations Act.

Wherefore, the undersigned recommends that:

1. Respondent cease and desist from interfering with, restraining or coercing its employees in the exercise of the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

2. Respondent cease and desist from dominating or interfering with the formation or administration of the Rare Metal Workers of America, Local #1, or any other labor organization, and from contributing financial or other support to said



Rare Metal Workers of America, Local #1, or any other labor organization.

3. Respondent cease and desist from discouraging membership in any labor organization, and more particularly Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, by discrimination in regard to hire or tenure of employment or any other term or condition of employment.

4. Respondent cease and desist from refusing to bargain collectively with the said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, the representative of its production employees, including maintenance employees, but excluding office help, laboratory men, engineers, managerial employees, and persons with authority to hire and fire.

3048 5. In order to effectuate the policies of the Act respondent take the following affirmative action:

a. Withdraw all recognition from the Rare Metal Workers of America, Local #1, as representative of its employees for the purpose of dealing with the respondent concerning wages, rates of pay, hours of employment or conditions of work, and disestablish said Rare Metal Workers of America, Local #1, as such representative;

b. Offer to Art Holm, immediate and full reinstatement to his former position as foreman of the maintenance department, or equivalent employment, on a full-time basis, with all rights and privileges previously enjoyed;

c. Make the said Art Holm, Sr. whole for any loss of pay he has suffered by reason of his discharge by payment to him of a sum equal to that which he would normally have earned as wages at his position as foreman of the maintenance department during the period from the date of his discharge to the date of such offer of employment, less the amount earned by him during such period;

d. Offer to the employees hereinafter named immediate and full reinstatement to their respective former positions, or equivalent employment on a full-time basis, with all rights and privileges previously enjoyed, namely: Roy Brown, Herman Latz, Otto Latz, Clarence Dreyer, Eric Lindberg, George Mondro, Frank Moxey, Robert Pratt, Isabelle Recktenwald, Edward Schuman, George W. Smith, Steve Ark, Nick Bankowisch, Joseph Chudy, W. D. Crump, John Cudith, Charles E. Fulkerson, Jr., Frank Furlan, Angelo Galbavy, John Grom, Fred Hensley, Tony Kancilja, Edward Kaucic,

John Kondrath, Frank Latz, Joseph Lima, Steve Luczo, Paul Makovec, Nate Mogel, Frank Museck, Anton Nagode, Merritt Pratt, Bartol Puntarich, Joseph Richveis, Andrew Rode, Alvar Romppaine, Ed Ruch, John Starovich, Alan White, Frank Zelenick, Mike Zelenick, John W. Jackoway, Arvo Romppaine, Luther Small, Paul Wells, Fern Gartley, Evelyn Graimer, Vivienne Johnson, Tillie Mesec, Marguerite Seifert, Bessie Luczo, Joan Bissonette, and Frances Fellens, 3049 Ed Brunke, Al Bunton, Phil Graimer, Stanley Grum, Victor Hertel, John Praski, Frank Scheuer, Elmer Luke, Leo P. Daluga, Harold Dreyer, Charles E. Fulkerson, Sr., T. E. Fagan, William D. Magness;

e. Make said employees whole for any loss of pay they have suffered by reason of the refusal to reemploy them by payment to them, respectively, of sums equal to those which they normally would have earned as wages at their respective positions during the period from the date of the reopening of the plant, namely, March 12, 1937, to the date of such offer of employment, less the amount earned by them during such period;

f. Offer employment to the following named employees to the extent of positions which have been or are being filled by persons employed since February 17, 1937, and for which the following named employees are qualified, and place those not so employed on a priority list to be given preference for such positions as may become available and for which they may be qualified: Andrew Anderson, Ted Christianson, Eugene D. Hendee, Art Holm, Jr., Oscar Johnson, Carl A. Swanson, Lester Crump, Vincent Ditmeyer, Charles Warner, Jerome Camernicke, Jr., Fred Yaeger, Raymond DuBois, Theodore Ohlson, Joseph Aigner, Joseph Petratis, Harry H. Rayner;

g. Upon request bargain collectively with Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, as the exclusive representative of its production employees, including maintenance employees, but excluding office help, laboratory men, engineers, managerial employees, and persons with authority to hire and fire, for the purpose of collective bargaining in respect to rates of pay, wages, hours of employment and other conditions of employment;

h. Post notices in conspicuous places in its plant stating (1) that the respondent will cease and desist in the manner aforesaid; (2) that the Rare Metal Workers of America, Local #1 is so disestablished; (3) the names of those not reem-

ployed but placed upon the priority list described above; and (4) that such notices will remain posted for a period of at least thirty (30) days from the date of posting;

i. File with the Regional Director for the Thirteenth Region on or before ten (10) days from the date of this report a report in writing setting forth in detail the manner and form in which it has complied with the foregoing requirements.

It is further recommended that unless within ten (10) days from the date of this report the respondent notifies said Regional Director in writing that he will comply with the foregoing recommendations, the matter be referred forthwith to the National Labor Relations Board and that said Board issue an order requiring the respondent to take the action aforesaid.

It is further recommended that the complaint be dismissed in so far as it pertains to the following named people: Joseph Hoff, Jasper Leskovec, Virginia Butterfield, Gus Canclakes, George Kallio, David Nostell, Peter Skarbalus, Victor Weatherhead, Elsworth Peters, and Jack Taylor.

Tilford E. Dudley,  
*Trial Examiner.*

Dated: September 2, 1937.

3051 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

\* \* (Caption—XIII-C-80) \* \*

### APPLICATION FOR EXTENSION OF TIME FOR FILING EXCEPTIONS.

Now comes Fansteel Metallurgical Corporation, Respondent in the above entitled cause, by Levinson Becker Peebles & Swiren, its counsel, and moves that the time of the Respondent for filing exceptions to the intermediate report of the Trial Examiner be extended for a period of ten (10) days to and including September 27, 1937.

In support of this motion, the Respondent respectfully shows that:

1. The intermediate report of the Trial Examiner was served on the Respondent and its counsel on September 7, 1937, and unless the extension is granted the exceptions will be required to be filed with this Board no later than September 17, 1937.

2. The hearings before the Trial Examiner were exten-

(Atkinson) and asked if she could have her job back, but Atkinson "said I couldn't, and I asked her why; I asked her if my work was all right, and she said it was O. K.; and then I asked her what the reason was, and she said—let me see now—something about my attitude, or something like that."

96. Both supervisors were concerned more about "attitudes" than efficiency. These were apparently union attitudes and, judging by the inaccuracy of the evidence concerning inefficiency of the other girls, it seems clear that union membership was the reason for the non-reinstatement of Misses Fellens and Bissonette. Joan Bissonette and Frances Fellens have been refused employment by the respondent for the reason that they joined and assisted a labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America and engaged in concerted activities for the purpose of collective bargaining and other mutual aid and protection.

97. By said refusal to employ Joan Bissonette and Frances Fellens, respondent has interfered with, restrained and coerced its employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, and by said refusal to employ said Joan Bissonette and Frances Fellens, respondent has also discouraged membership in the labor organization known as Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America.

3035

### The Contact Department.

98. The pleadings and the evidence show that the men in the respondent's Contact Department were not reinstated by the respondent after the reopening of its plant in March, 1937. Respondent's pleadings and testimony state that these jobs were abolished, and that the men could not be reinstated because their jobs were no longer in existence. This resulted from an alleged reorganization of the entire department for the purpose of reducing costs and improving quality of work. The positions so abolished were formerly filled by six grinders, two spinners and eight cutters (Respondent's Exhibit 20).

99. However, the jobs were not abolished as claimed. The work of that department continued to be performed and the functions of the jobs remained approximately the same. The difference was that the positions were filled by new women

3055- BEFORE THE NATIONAL LABOR RELATIONS BOARD.

\* \* (Caption—XIII-C-80) \* \*

STATEMENT OF EXCEPTIONS  
OF FANSTEEL METALLURGICAL CORPORATION TO  
INTERMEDIATE REPORT AND OTHER PARTS  
OF THE RECORD.

Levinson, Becker, Peebles & Swiren,  
Sidney H. Block,

*Counsel for Fansteel Metallurgical  
Corporation, Respondent.*

3056 \* \* (Caption—XIII-C-80) \* \*

Fansteel Metallurgical Corporation, Respondent in the above entitled proceeding, does hereby take exception to the Intermediate Report of the Trial Examiner, Tilford E. Dudley, dated September 2, 1937, and served upon the Respondent September 7, 1937, and to all of the findings, conclusions and recommendations contained in said Intermediate Report, to certain of the Trial Examiner's rulings on motions and objections and to other parts of the record, as follows:

3057

I.

No Finding Respecting the Principal Issue.

Exception No. 1. Upon the undisputed evidence, the Trial Examiner should have found that fifty-nine men named in the complaint were discharged for participating in the illegal seizure and retention of Respondent's plant, that such discharge was for good and sufficient cause, and that accordingly the complaint should be dismissed with respect to such men. The charges upon which the Complaint in this proceeding was issued, grew out of a so called "sit-down" strike during which the two key buildings of the Respondent's plant were occupied by ninety-four employees from February 17, 1937, to February 26, 1937.

On the day of the seizure, a group of employees representing themselves to be the Bargaining Committee of Lodge 66 of the Amalgamated Association of Iron, Steel and Tin



Workers of North America (hereinafter called "Lodge 66") had two conferences with the management respecting collective bargaining, the results of which were not satisfactory to the committee. Fifteen minutes after the close of the second conference (about 2:30 o'clock in the afternoon), without any notice or warning, this committee and certain other employees seized Buildings 3 and 5 of the Respondent's plant and thereby stopped all of the Respondent's operations. They evicted the foremen and other employees from the buildings and locked, wire and barricaded the doors from the inside. A formal, specific demand for return of possession made by the Respondent that evening was rejected by the men, and the Respondent thereupon announced that all of the men occupying the buildings were discharged for their seizure and retention thereof. With eight or ten exceptions, the Respondent did not, at the time of the discharge, know the identity, number or union affiliations, if any, of the men in occupancy of the buildings.

The next morning, upon complaint of the Respondent and after hearing in which the men in the buildings and Lodge 66 were represented by counsel, the Circuit Court of Lake County, Illinois, issued an injunctive order, finding that the seizure of the buildings was illegal and that the men in occupancy thereof had been discharged, and directed that the men vacate the buildings and return possession to the Respondent. The men within the buildings refused to comply with the writ of injunction (issued pursuant to the order), which was duly served upon them. The Court thereupon issued a writ of attachment directing the Sheriff to arrest the men holding the buildings and bring them before the Court to show cause why they should not be punished for contempt. The men again refused to comply, and, after resisting with violence, they were finally evicted by the Sheriff on February 26, 1937. Thirty-nine of these men were subsequently found guilty of contempt by the Circuit Court of Lake County for disregarding the Court's injunction and were accordingly fined and sentenced to jail. At the same time, a final decree was entered in the injunction proceedings, without objection on the part of Lodge 66 or the individual defendants, confirming the previous finding that the plant seizure was illegal and that the men in occupancy of the buildings had been duly discharged for seizing the buildings and permanently enjoining the further interference with the Respondent's possession of its plant. No appeal was ever taken from that final decree.

These facts are undisputed, being the subject of written stipulation between the Respondent, the Board and Lodge 66 and admitted in evidence as Respondent's Exhibit 7.

The damage occasioned by the men during this occupancy of the buildings was repaired immediately after their 3059 eviction, and operations were resumed early in March, 1937. When the plant reopened, many of the old employees returned to work. Some refused and, in their places, new employees were obtained. A number of men and women who were asked to return to work declined to do so.

Most of the persons recommended for reemployment or reinstatement by the Intermediate Report either participated or aided and abetted in the illegal seizure and retention of the Respondent's plant. With respect to such persons, the issues raised by the pleadings in this proceeding were:

1. Was the conduct of the men who seized the key buildings of the plant sufficient cause for their discharge by the Respondent?

2. Was the Respondent under any legal duty to reemploy any of the men discharged for such plant seizure?

3. Was the Respondent under any legal duty to recall to work any of the persons who aided and abetted in the illegal retention of Respondent's plant?

The Intermediate Report completely ignores the first issue and, in dealing with the second and third issues relating to reemployment and reinstatement, fails to give any consideration to the prior discharge or the illegality of the seizure and retention of the plant. The Trial Examiner should have made definite findings, first, whether Respondent was justified in discharging the men who had seized its plant and, secondly, whether, if such discharge was proper, Respondent was under any duty at any time thereafter to reemploy such men.

Exception No. 2. The Trial Examiner should have found that the Respondent was under no duty to offer reemployment or work to men who had been discharged for participating in the plant seizure or the group of men who remained on the outside and aided and abetted in the illegal retention of the plant. There is no evidence to support the Trial Examiner's contrary finding that the discharge of the former group and the illegal conduct of the latter group were not the real reasons for the Respondent's failure to offer reemployment or work but that the real reason was the union membership and activity of both groups of men. The 3060



only basis for that finding is the Trial Examiner's repeated citation of the fact that some of the men who had been discharged for participating in the plant seizure had been reemployed. Such of the men who were discharged for the plant seizure on February 17, 1937, who filed application for reemployment were rehired by the Respondent without condition or limitations and without any reference to their previous or future union activities.\* Such of the men who were discharged on February 17th, who did not apply were not reemployed and comprise the principal group recommended for "reinstatement" by the Intermediate Report. The record shows no statements or acts of discrimination against any of these men or any refusal to entertain applications from them for reemployment; indeed, more than fifteen of them (including the original vice-president of Lodge 66 and other leaders) were affirmatively asked to file applications and refused so to do. That no discrimination was actually practiced is demonstrated by the fact that the Respondent, upon resuming operations, reemployed or put to work sixty-one members of Lodge 66, some of whom were officers and members of the Bargaining Committee and others of whom were outstandingly active in union affairs,—all without condition or limitation of any kind. Of the group in question, those who 3061 were asked to file applications for reemployment refused to do so; the others testified that if they had been asked, they would not have returned to work. Upon this record, the Trial Examiner erred in finding that the Respondent discriminated against these employees and the discharged employees by reason of union membership or activity, and further erred in recommending their reinstatement with back pay; such findings, conclusions and recommendations are without any authority in law or in fact.

## II.

### Preliminary Motions.

Exception No. 3. The Regional Director and the Board erred in denying the motion of the Respondent for an ad-

\* The only three who applied and were not rehired were: Joe Petraitis, whose position in the tool room had been abolished (Rec. 1896), seventy-four year old Joseph Aigner, whose work was combined with that of another man (Rec. 2035-8), and Ed Ruck, who did not apply until six weeks after operations had been resumed and his position had been filled (Rec. 1897).

journalment of the date of hearing for at least ten (10) days from June 7, 1937 (Bd. Ex. 1-C) in order to avoid conflict with pending proceedings before the Circuit Court of Lake County, Illinois, and to afford the Respondent a reasonable opportunity to prepare for hearing as provided by the National Labor Relations Act.

Exception No. 4. The Trial Examiner erred in overruling the motion made at the opening of the hearing on June 7, 1937, for an adjournment of the proceedings until after the completion of the pending trial before the Circuit Court of Lake County and an interval of a few days for the purpose of according the Respondent an opportunity to prepare for hearing before the Board. The failure to grant such motion unduly prejudiced the Respondent and constituted a denial of its constitutional right to due process of law.

Exception No. 5. The Board erred in denying the Respondent's application (Bd. Ex. 1-G) for subpoenas and subpoenas duces tecum and the repeated renewals of such application made to the Trial Examiner during the hearing. By reason of the refusal to issue such subpoenas, the Respondent was hampered and unduly prejudiced in the presentation of evidence and was prevented from adducing and presenting evidence in accordance with the National Labor Relations Act and the constitutional guarantee of due process of law.

(a) In the original application filed in advance of the hearing, the Respondent sought subpoenas and subpoenas duces tecum for the purpose of summoning witnesses to testify on, and to produce written and documentary evidence in their possession having a material bearing upon, the specific issues raised by the pleadings. Such application should have been granted immediately and an opportunity thereby afforded the Respondent to serve such subpoenas and summon such witnesses. After the hearing had been in progress more than a week, the Board entered an order denying, in its entirety, the Respondent's application for subpoenas.

(b) The application for subpoenas was renewed before the Trial Examiner at the opening of the hearing (Rec. 47, 48), and that renewal was likewise denied, as shown by Board's Exhibit 1-O. During the hearing, witnesses for the Board testified orally on matters contained in written records, which the Respondent sought to have produced by the subpoenas duces tecum requested in its application (Rec. 339-342). The Respondent thereupon requested, without avail, that the sub-

poenas be issued forthwith for use in cross-examining such witnesses.

(c) At the close of the Board's case, the Respondent again renewed its original application for subpoenas and subpoenas duces tecum (Rec. 1602) but no action was taken thereon. 3063 Such request was again renewed by the Respondent before closing its case and again without avail (Rec. 2448).

By reason of such refusal to issue subpoenas, the Respondent was hampered and unduly prejudiced in the presentation of its evidence and was deprived of an opportunity for full hearing, in violation of the due process provisions of the Constitution of the United States.

Exception No. 6. In the case of "Fansteel Metallurgical Corporation *vs.* Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, et al.," bearing General No. 37551, the Circuit Court of Lake County, Illinois, entered an order on June 8, 1937, and a final decree on June 9, 1937 (R. Ex. 1 and 2, respectively), adjudging that the retention of Respondent's plant by the men therein named was contrary to law and that such men were properly discharged for such seizure. Such adjudication is *res adjudicata* between the Respondent, Lodge 66 and the men named in said order and decree with respect to whom complaint is made herein. The Trial Examiner erred in overruling the Respondent's motion to dismiss the complaint in so far as it relates to the men named in the order and decree of the Circuit Court of Lake County. The denial of such motion is in disregard of the due process and the full faith and credit provisions of the Constitution of the United States.

### III.

#### Findings in the Intermediate Report.

Exception No. 7. Finding 2 is erroneous. The Trial Examiner should have found that on February 17, 1937, the Respondent had 243 employees who were not engaged in administrative, supervisory, laboratory and engineering functions. (R. Ex. 25).

3064 Exception No. 8. In Findings 8 to 13, the Trial Examiner erroneously relies upon the oral testimony of union officers respecting their eligibility rules and their membership, notwithstanding (1) the indefiniteness and lack of uniformity in the testimony (Rec. 148, 156, 166); (2) the

refusal of Lodge 66 and its officers to produce the constitution, by-laws, articles of association, records or other regulations of such Lodge and of the Amalgamated Association of Iron, Steel and Tin Workers of North America from which such rules were drawn or wherein they are formulated and determined; and (3) the refusal of Lodge 66 and its officers to produce its membership books and records.

Exception No. 9. Finding 12 is erroneous in excluding from the roll of employees within the appropriate bargaining unit (a) employees on the regular payroll who, on the two days in question, were ill and, therefore, not actually at work, and (b) five employees who are paid on an hourly basis, work on production and have, in addition, simple supervisory duties without power of hire and discharge.

Exception No. 10. The Trial Examiner erred in failing to find as a fact that, during the entire period in which Lodge 66 was organized, was soliciting members among the employees of the Respondent and making demands upon the Respondent, no member of such Union was discharged, threatened with discharge, or in any way disciplined by reason of his membership in the Union or by reason of having engaged in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Exception No. 11. The statements in Finding 14 with reference to the denial of the use of the bulletin board should be disregarded by the Board upon the ground that they are wholly immaterial. The Respondent was under no obligation to make available to Lodge 66 the use of its bulletin board or any other property of the Respondent.

3065 Exception No. 12. In Finding 17 the Trial Examiner should have found that the statements of Mr. Anselm during the meeting with the committee of Lodge 66 on September 10, 1936, with reference to union recognition and "outside unions" were made as an objection to the demand of Lodge 66, representing a minority of the employees, for a closed shop and check-off system, i. e., that all employees of the Respondent be required, as a condition of employment, to become members of said Lodge 66 and that the Respondent should "check-off" or deduct from the wages of all employees a fixed amount to be paid to Lodge 66 as dues, without regard to the views or desires of the individual employee. John Kondrath, President of Lodge 66, testified that Respondent's open letter of September 22, 1936, granted all demands "except recognition." That letter does not in any way mention

recognition but announces the Respondent's refusal to accept the closed shop and check-off system demands. The Trial Examiner should have found that the Committee regarded the term "union recognition" as including a closed shop and check-off system, and the testimony of the members of the Committee must be so construed. Findings 17 and 18 are contrary to the evidence.

Exception No. 13. Finding 19 is not supported by the evidence and is based on a consideration of oral testimony as to the contents of written records not produced and other incompetent evidence.

Exception No. 14. Findings 20, 21 and 22 are not supported by the evidence. The Trial Examiner should have found that Mr. Anselm made no appointment to meet Mr. Adelman or any other representatives of Lodge 66 and that Mr. Anselm's refusal to confer with Mr. Adelman September 21, was solely by reason of the fact that Adelman had entered Mr. Anselm's private office without permission and without arranging to come in in the conventional and 3066 regular manner; and that the committee of Lodge 66 recognized that that was the sole basis for the refusal by apologizing to Mr. Anselm for the intrusion (Rec. 287-9, 326).

Exception No. 15. In view of Finding 13, that Lodge 66 did not represent a majority of the employees of the Respondent on September 21st, as required by Section 9(a) of the National Labor Relations Act, the Respondent was not, as a matter of law, obliged to bargain with Lodge 66 as the collective bargaining agency of its employees, and accordingly Findings 20 to 22, both inclusive, are immaterial and should be disregarded by the Board.

Exception No. 16. Finding 23 is unfair in setting out distorted excerpts from Board's Exhibit 14.

Exception No. 17. The Trial Examiner erred in failing to find as matters of law and fact that:

(a) In and by its open letter of September 22, 1936, (Bd. Ex. 14) the Respondent engaged in collective bargaining with its employees and acceded to all demands made by the committee of employees on September 10th in the draft contract presented by them to Mr. Anselm, with the exception of recognition of Lodge 66 as the exclusive bargaining agency for all employees, the closed shop requirement that every employee be compelled to join Lodge 66 and the check-off system whereby the Respondent would be compelled to de-



duct from the wages of all employees, with or without their consent, an amount fixed by Lodge 66 as its dues.

(b) Under the provisions of the National Labor Relations Act, the Respondent was prohibited from recognizing Lodge 66 as the exclusive bargaining agency for all of its employees or entering into a closed shop and check-off system contract with Lodge 66, as the representative of less than a majority of its employees.

3067 Exception No. 18. Findings 26 and 27 are not supported by the evidence.

Exception No. 19. Findings 28, 29 and 30 are not supported by the evidence.

Exception No. 20. There is no evidence to support Findings 31 to 36, both inclusive.

Exception No. 21. There is no evidence to support Findings 37 to 40, both inclusive.

Exception No. 22. Finding 41 is not supported by the evidence. Lodge 66 and its officers refused to produce at the hearing, and the Board declined repeatedly to issue subpoenas duces tecum to compel the production of, the current membership records in order to determine the actual number of employees of the Respondent who were members of Lodge 66 and had authorized it to act as their bargaining agency on February 17, 1937.

Exception No. 23. Finding 42 is not supported by the evidence.

Exception No. 24. Findings 43 to 48 are contrary to the evidence and based upon a consideration of incompetent evidence. Lodge 66 and its officers refused to produce its current membership records in support of oral estimates and such refusal raises a presumption that, if produced, such records would disprove the officers' oral estimates. The Board did not proceed in this case under the provisions of Section 9 of the National Labor Relations Act. No proper evidence was offered as to membership on February 17, 1937, and no evidence whatever was offered as to subsequent membership.

3068 Discharge of Employees Participating in Illegal Seizure and Retention of Respondent's Plant.

Exception No. 25. Findings 49 to 52 are in part insufficient excerpts from the evidence and are in part contrary to the uncontradicted evidence. Upon the stipulation between the parties to this proceeding (R. Ex. 7) and the uncon-

tradicted evidence, the Trial Examiner should have found that:

(a) About 2:00 o'clock in the afternoon of February 17, 1937, certain of the employees of the Respondent ceased work and, with force and violence, took possession of Buildings 3 and 5 of the Respondent's plant and ordered and compelled the foremen and certain other employees, including women, to leave those buildings, all without previous notice or warning to the Respondent and without the permission or consent of the Respondent or any of its officers. Thereupon, such persons closed and barricaded the doors of said buildings from the inside and kept and retained possession of such Buildings 3 and 5 to the exclusion of the Respondent and its officers and agents until the morning of February 26, 1937.

(b) Buildings 3 and 5 are the key buildings of the entire plant of the Respondent, and the seizure and retention of such buildings resulted in the entire closing of the plant and the complete stoppage of all of its business operations.

(c) Approximately four hours following the seizure of Buildings 3 and 5, A. J. Anselm and Max Swiren, Plant Superintendent and counsel, respectively, of the Respondent, acting upon the orders of the President of the Respondent, and accompanied by the Chief of Police of North Chicago, Illinois, and a Deputy Sheriff of Lake County, Illinois, went to Building 3, and, after announcing their identity and authority, sought entrance into the building. Upon the refusal of those within the building to admit them, Mr. Swiren, acting upon the orders of R. J. Aitchison, President of the Respondent, passed into the building a written notice stating that the Respondent would appear on the following morning before Ralph J. Dady, presiding Judge of the Circuit Court of Lake County, Illinois, and institute proceedings with a view to obtaining an injunction directing the men to vacate the building. Thereupon, Messrs. Swiren and Anselm, acting upon the orders of Mr. Aitchison, requested the men to leave the building and, upon their refusal so to do, again acting upon orders from Mr. Aitchison, they announced that every man remaining in the building was discharged for the violent seizure and retention of the buildings. Thereupon, Messrs. Swiren and Anselm, Chief of Police Novak and Deputy Sheriff Ebler proceeded to Building 5 and went through the same procedure, made the same request and announcement with the same results, and, upon the refusal of the men within Building 5 to leave the building, announced that every man re-



maining in the building was thereupon discharged for the violent seizure and retention of the building.

(d) At the time of the discharge of the men in Buildings 3 and 5, their number, their identity and their union affiliations, if any, with eight or ten exceptions, were totally unknown to Mr. Aitchison, Mr. Anselm, or Mr. Swiren, or anyone connected with the management of the Respondent (no information concerning union membership ever having been submitted to the Respondent), and the discharge was a blanket discharge of all of the men then in occupation of the buildings.

3070 (e) The following men named in the Complaint participated in the seizure and retention of Buildings 3 and 5 on February 17, 1937, and were in occupation thereof at the time of the discharge aforesaid:

Joseph Aigner  
 Andrew M. Anderson  
 Steve Ark  
 Nick Benkovich  
 Roy Brown  
 Edward Brunke  
 Al Bunton  
 Jerome Camernick, Jr.  
 Ted Christianson  
 Joseph Chudy  
 Lester Crump  
 John Cudith, Jr.  
 Leo P. Daluga  
 Vincent Dietmeyer  
 Clarence Dreyer  
 Harold Dreyer  
 Raymond E. DuBois  
 Charles E. Fulkerson, Sr.  
 Angelo Galbavy  
 Phil Graimer  
 Stanley Grum  
 Eugene D. Hendee  
 Fred Hensley  
 Victor Hertel  
 Art Holm, Jr.  
 John W. Jackoway  
 Oscar Johnson  
 Edward Kaucic  
 Tony Koncilja  
 John Kondrath

Frank Latz  
 Herman Latz  
 Eric Lindberg  
 Steve Luczo  
 Elmer Luke  
 Nate Mogel  
 George Mondro  
 Frank Moxey  
 Frank Musech  
 Antone Nagode  
 Theodore Ohlson  
 Joseph Petraitis  
 John Praski  
 Merritt Pratt  
 Robert Pratt  
 Joseph Richveis  
 Andrew Rode  
 Alvar Romppaine  
 Arvo Romppaine  
 Ed. Ruck  
 Frank Scheuer  
 Edward Schuman  
 Luther Small  
 George W. Smith  
 Carl A. Swanson  
 Charles Warner  
 Paul Wells  
 Allen White  
 Fred Yaeger  
 Frank Zelenick

(f) The seizure and retention of the plant was contrary to the civil and criminal laws of the State of Illinois and 3071 was punishable under Section 376 of the Criminal Code of the State of Illinois commonly known as the "Intimidation Section" (R. Ex. 39).

(g) On the following morning, February 18, 1937, Respondent filed in the Circuit Court of Lake County, Illinois, its sworn Complaint reciting the violent seizure of the plant by certain employees, their refusal to surrender possession and their discharge as employees, and praying that an injunction may be entered requiring the removal from the premises of the men then in occupancy thereof and restoration of possession to the Respondent. Immediately upon filing of the Complaint, a hearing was had upon the application of the Respondent for an injunctive order, at which all of the defendants named in the Complaint appeared by their counsel and an injunctive order was thereupon issued by the Circuit Court of Lake County, Illinois, directing the men in occupancy of Buildings 3 and 5 immediately to vacate said premises and restore the buildings and contents thereof to the Respondent. At about noon on February 18, 1937, Lawrence A. Doolittle, the duly elected and acting Sheriff of Lake County, Illinois, accompanied by Thomas Kennedy, Chief Deputy Sheriff of Lake County, Illinois, and certain other deputy sheriffs, went to Buildings 3 and 5 and attempted to gain entrance thereto but were refused admittance to said buildings by the men in possession thereof. Thereupon, the Sheriff and his deputies read the writ of injunction through open windows in each of Buildings 3 and 5 to the men in occupancy of the buildings and passed copies into the buildings; that upon inquiry from the Sheriff, the men in the buildings informed him that they would not leave the premises.

(h) Thereafter, on the same day, upon the verified petition of the Respondent, the Circuit Court of Lake 3072 County, Illinois, issued a writ of attachment directing the Sheriff of Lake County, Illinois, to attach and bring before the bar of the Circuit Court the men holding possession of Buildings 3 and 5 to show cause, if any they had, why they should not be adjudged guilty of contempt for failure to obey the aforementioned injunctive order and writ of injunction and be punished therefor. Pursuant to said order, a writ of attachment issued out of, and under the seal of, the Circuit Court of Lake County, Illinois, on the 18th day of February, 1937, ordering and directing the Sheriff of Lake

County forthwith to seize certain named persons and all persons occupying said buildings and bring them forthwith before the Circuit Court of Lake County.

(i) On the morning of February 19, 1937, Lawrence A. Doolittle, the Sheriff of Lake County, Illinois, accompanied by Chief Deputy Thomas Kennedy and approximately one hundred deputy sheriffs, went to Buildings 3 and 5 of Respondent's plant and advised the men within such buildings of the issuance of such writ of attachment and requested such men so occupying the buildings to surrender themselves to the Sheriff and his deputies. The men then occupying Buildings 3 and 5 refused to comply with the request of the Sheriff, and thereupon the Sheriff and his deputies attempted to gain entrance into Buildings 3 and 5; that the efforts of the Sheriff and his deputies to gain entrance to Buildings 3 and 5 were repulsed by a barrage of missiles and acid (Rec. 1680-90, 1721-3, 1736-8, 1753-7, 1769-71, 1780, 1799), and thereafter the men within Buildings 3 and 5 continued to occupy such buildings until they were evicted by the Sheriff and his deputies on the morning of February 26, 1937.

(j) On the morning of February 26, 1937, Lawrence A. Doolittle, Sheriff of Lake County, Illinois, accompanied 3073 by Chief Deputy Thomas E. Kennedy and approximately fifty deputy sheriffs, again went to Buildings 3 and 5 of the Respondent's plant and attempted to gain entrance thereto for the purpose of enforcing the writ of injunction and the writ of attachment issued by the Circuit Court of Lake County, Illinois. The efforts of the Sheriff and his deputies so to gain entrance were resisted by the persons occupying the buildings, who again attacked the Sheriff and his deputies with a barrage of missiles and acid. Thereupon, the Sheriff and his deputies were compelled to use tear and emetic gas in order to evict said persons from Buildings 3 and 5 and by the use thereof were able to vacate the buildings and restore them to the possession of the Respondent.

(k) During the period from February 17, 1937, to February 26, 1937, certain of the men in occupancy of the buildings escaped from the buildings and others were permitted to leave by the remaining men in occupancy of such buildings.

(l) During the period from February 17th to February 26, 1937, copies of the Chicago and Waukegan daily papers were delivered twice daily to the men occupying Buildings 3 and 5 and practically all of such newspapers contained accounts of the occupation of Buildings 3 and 5 and many of

1906

*Application for Extension of Time.*

sive, requiring a period of approximately three weeks, during which time 2480 pages of testimony were taken and approximately 125 exhibits, many being extensive in scope and substantial in size, were admitted to evidence.

3. The intermediate report is 53 pages long and contains 128 findings in addition to the conclusions and recommendations of the Trial Examiner.

4. There are presented on this record numerous questions of fact and law, many of which have never before been considered in any reported decisions of the Board. Included among these are questions growing out of the violent seizure of the Respondent's plant by a group of employees who were discharged for such seizure and on whose behalf the charges in this proceeding were filed.

By reason of the matters and things set out above, the extension of time is necessary in order properly and adequately to present, for the consideration of the Board, the exceptions to the intermediate report on behalf of the Respondent.

Levinson Becker Peebles & Swiren,  
*Counsel for Fansteel Metallurgical  
Corporation, Respondent.*

3054 Standard Form No. 14

Approved by the President  
March 10, 1926

From BW:PG

Bureau National Labor Relations Board  
Chg. Appropriation NLRB

Telegram

Official Business—Government Rates

September 10, 1937.

Levinson Becker Peebles & Swiren  
One North LaSalle Street  
Chicago Illinois

Re Fansteel The Board Has Denied Your Request For  
Extension Of Time For Filing Exceptions.

Benedict Wolf,  
*Secretary.*

such stories made mention of the issuance of the injunctive order and the writ of injunction by the Circuit Court of Lake County, Illinois, and the unsuccessful efforts of the Sheriff of Lake County, Illinois, and his deputy sheriffs to carry out such order and writ on the morning of February 19, 1937.

The undisputed testimony further discloses that the issuance of the injunctive order, writ of injunction and writ of attachment was known to the men in occupancy of Buildings 3 and 5, had been discussed by them and had been maliciously and intentionally flouted and disregarded.

(m) The efforts of Lawrence A. Doolittle, Sheriff of Lake County, and his deputy sheriffs, on February 19, 1937, and February 26, 1937, to enforce the writ of injunction and writ of attachment issued by the Circuit Court of Lake County, Illinois, were, with force and violence, resisted by the men in occupancy of Buildings 3 and 5, including the men hereinbefore in Sub-paragraph (e) hereof named, and in such resistance they hurled at the Sheriff and his deputies, large quantities of heavy steel and iron missiles, including pipes, bolts, nuts, reamers, and tools, wire reels and small tools (Rec. 1680-90). Typical of such missiles are Respondent's Exhibits 10, 11 and 12, being, respectively, a wire-drawing spool about 5½ inches in diameter and weighing about 3 pounds, a sharp edged tool known as an "end mill" which is an inch and three-quarters in diameter and 8 inches in length, weighing about 4 pounds, and a smaller end tool weighing about a pound and a half. In addition to such missiles, the men in occupancy of the buildings directed fire hoses and chemical fire extinguishers fed from huge tanks against the Sheriff and his deputies and also poured sulphuric acid and threw quart bottles of sulphuric acid at the Sheriff and his deputies, all in an effort to keep them from enforcing the aforementioned writs of injunction and attachment (Rec. 1680-90, 1721-3, 1736-8, 1753-7, 1769-71, 1780, 1799). A number of deputy sheriffs were injured by the missiles and acid hurled at them through the windows by the men in occupancy of the buildings (Rec. 1732).

3075 (n) In the course of their illegal and violent seizure and retention and possession of Buildings 3 and 5, the men participating in such activity wilfully destroyed a substantial amount of property owned by the Respondent and otherwise seriously injured and damaged the Respondent. The physical destruction consisted of breaking windows, throwing and destroying small tools and parts, many of which were hurled through the windows, destruction of sulphuric



acid, destruction of forty to fifty thousand valuable tungsten contact points which were thrown at the deputies from the windows, burning out of two furnaces as a result of being allowed to cool rapidly, damage to interior of buildings from fomite and other chemicals contained in the fire extinguishers, and other physical damage occasioned by the use of the buildings for living purposes by some ninety men without adequate facilities therefor. Machinery rusted and was otherwise damaged by exposure and lack of proper care. The President of the Respondent, whose testimony was uncontradicted, computed the damage as follows: Damages to buildings, equipment and inventory, between \$10,000.00 and \$12,000.00; damage through loss of possession of the buildings by reason of continued fixed charges and overhead expense, \$20,000.00; and damage by reason of loss of business, \$30,000.00 (Rec. 1690, 1696-1701, 1834-38).

(o) All of the men who were in occupancy of Buildings 3 and 5 on the evening of February 17, 1937, including all of the men listed in Subparagraph (e) hereof, were discharged solely by reason of their violent and unlawful seizure of the Respondent's property and for no other reason whatsoever.

(p) In an order entered by the Circuit Court of Lake County on June 8, 1937 (Respondent's Exhibit 1), the 3076 following men were found guilty of contempt for refusing to vacate Respondent's plant as required by the writ of injunction, and fined and sentenced to jail therefor:

Steve Ark	Frank Latz
Roy Brown	Herman Latz
Edward Brunke	Frank Musech
Al Bunton	Antone Nagode
Jerome Camernick, Jr.	David Nostell
Gus Canelakes	Elsworth Peters
Joseph Chudy	Merritt Pratt
Lester Crump	Robert Pratt
Vincent Dietmeyer	Joseph Richveis
Clarence Dreyer	Andrew Rode
Harold Dreyer	Alvar Romppaine
Raymond E. DuBois	Arvo Romppaine
Angelo Galbavy	Peter Skarbalus
Stanley Grum	Luther Small
Art Holm, Jr.	Carl A. Swanson
George Kallio	Charles Warner
Edward Kaucic	Fred Yaeger
Tony Koncilja	Frank Zelenick
John Kondrath	

(q) The work of the employees of respondent ceased on February 17, 1937, solely by reason of the illegal and violent seizure of buildings 3 and 5 of Respondent's plant by certain employees of Respondent, and, in no respect, did such work cease as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice. No notice or warning was given to Respondent prior to the seizure of buildings 3 and 5 on February 17, 1937, and at no time during the occupancy of the buildings by the former employees of Respondent from February 17th to February 27th did such former employees or Lodge 66 on their behalf offer to withdraw from such buildings and return possession thereof to the Respondent upon any terms or conditions whatsoever.

3077 Exception No. 26. Findings 53, 54 and 55 are contrary to the evidence. The Trial Examiner should have found that:

(a) Art Holm, Sr., was properly discharged on February 25, 1937, as foreman of the maintenance department, for good cause. Holm was guilty of gross incompetence, inefficiency and insubordination, and the record discloses repeated instances of willful disregard of specific instructions from his superiors. At the time of his discharge, the officers of the respondent had under consideration the elimination of the maintenance department, and upon reopening the plant in March, 1937, the Respondent did reduce the department from eighteen men and a foreman to a force of one carpenter, one electrician and two helpers (Rec. 1853). As a foreman, Holm was ineligible for membership in Lodge 66.

(b) There is no evidence in the record to sustain the charge that Art Holm, Sr., was discharged because the Respondent suspected that he was a member of Lodge 66 or because he engaged in union activities.

During the hearing, while counsel were introducing evidence relating to the cause of the discharge of Art Holm, Sr., the Trial Examiner interrupted the proceeding and announced (off the record (Rec. 2337)) that the evidence sufficiently showed proper discharge of Holm and that it would be unnecessary for the Respondent to offer further evidence on that subject. Later in the same day, during a recess of the hearing (Rec. 2339), the Trial Examiner repeated such statements to counsel for the Respondent and confirmed his previous conclusion that the evidence already introduced was wholly sufficient to establish the proper discharge of Holm. The Re-



Respondent relied upon such assurances and thereupon rested its case with respect to Art Holm, Sr. Respondent offers to make proof of said facts in such manner as the Board directs.

Findings 53, 54 and 55 are directly contrary to the conclusions expressed by the Trial Examiner at open hearing and are not supported by the evidence.

Exception No. 27. Findings 56 to 59, both inclusive, are contrary to the evidence.

Exception No. 28. The Trial Examiner erred in failing to find that during the period from February 26, 1937, to March 12, 1937, the Respondent affirmatively requested the following persons named in Paragraph 11 of the Complaint to apply for reemployment or to return to work and resume their duties:

Roy Brown	Tillie Mesec
Clarence Dreyer	Robert Pratt
John W. Jackoway	Edward Schuman
Otto Latz	Peter Skarbalus
Eric Lindberg	George W. Smith
George Mondro	Arvo Romppaine
Frank Moxey	Luther Small
Isabelle Recktenwald	Paul Wells

Such offer was refused by all of said persons, who voluntarily absented themselves from the Respondent's plant and refused to resume their work. The Respondent's offer of reinstatement was made without any conditions whatsoever (Rec. 1891-2, 605-7, 608, 611, 621). Upon resumption of operations at or about March 12, 1937, sixty-one members of Lodge 66, some of whom had been previously discharged for cause, were reemployed or given work without any conditions respecting union membership, union activity, collective bargaining or any other concerted action among employees or any other conditions (Rec. 2110, 1891-2, 1396-1400, 1386, 1506).

Exception No. 29. Findings Nos. 60, 61, 63 and 64 are contrary to the evidence. The Trial Examiner should have found that:

(a) On March 3, 1937, Swanson, Latz and Dreyer, purporting to act as a committee, requested in writing (Bd. Ex. 25-A) a conference to discuss with them as representatives of Lodge 66, the matter of collective bargaining and the recognition of the Steel Workers Organizing Committee as the sole bargaining agency for Respondent's employees. On that date, neither said Lodge 66 nor said Committee nor the Steel Workers Organizing Committee represented a majority of the employees of the Respondent.

(b) The Respondent's reply to the demand of March 3, 1937 (Bd. Ex. 25-A) expressly states that the bona fide membership of Lodge 66 was limited to a small minority of the employees and expressly calls attention to the fact that all persons who participated in the violent seizure of the plant on February 17, 1937, including the members of the Committee, had been discharged and were no longer employees of the Respondent. Such statements in the Respondent's reply were true, and Respondent was under no duty to recognize the Steel Workers Organizing Committee as the exclusive bargaining agency for its employees or to bargain with Lodge 66 or its Committee.

(c) On March 5, 1937, the same committee of Lodge 66 renewed its request for a recognition of Lodge 66 and a meeting for the purpose of collective bargaining without stating whether or not it had withdrawn its request for recognition of the Steel Workers Organizing Committee as the exclusive bargaining agency for all of Respondent's employees (Bd. Ex. 25-A). The Respondent thereupon replied that the request was different from the request of March 3, only in that Lodge 66 was being substituted for the Steel Workers Organizing Committee. There is no evidence that on March 5, 1937, Lodge 66 was authorized to represent any greater percentage of the employees than on March 3, 1937. Accordingly, the Respondent was under no duty to recognize Lodge 66 as the bargaining agency for its employees or for the members of Lodge 66 and was under no duty to bargain with Lodge 66 or its committee.

#### **Alleged Refusal to Reinstate Certain Eleven Employees.**

Exception No. 30. Findings 65 to 70 are contrary to the record evidence. The Trial Examiner should have found, with respect to the eleven persons referred to in such findings, that:

(a) Isabelle Recktenwald and Otto Latz were never discharged as employees and upon the resumption of operations early in March, 1937, they were each affirmatively requested to return to work. No conditions of any kind were attached to such requests. Isabelle Recktenwald and Otto Latz voluntarily refused to return to work, and Respondent was not thereafter, and is not now, under any duty to reinstate them.

(b) All of the following persons, having been employees

of the Respondent on February 17, 1937, participated in the illegal seizure and retention of buildings 3 and 5 on that day, declined to leave the buildings when ordered so to do by the Respondent and were discharged by the Respondent on the evening of February 17, 1937, for proper cause:

Roy Brown	Frank Moxey
Clarence Dreyer	Robert Pratt
Eric Lindberg	Edward Schuman
George Mondro	George W. Smith

Respondent was not thereafter, and is not now, under any duty to offer reemployment to any of such persons.

(c) After the resumption of operations by the Respondent in March, 1937, Respondent, without any legal duty so to do, voluntarily requested all of the men listed in the next preceding paragraph to fill out applications for reemployment and return to work. No conditions respecting union membership, union activity, collective bargaining or mutual aid and protection or any other conditions were attached to such request. All of such men voluntarily refused such offers of reemployment. Respondent is under no duty to reemploy any of such men (Rec. 599-617, 763-4, 796-7, 814-5, 889, 1330-1).

**Reinstatement of Employees Aiding and Abetting Illegal Retention of Buildings 3 and 5.**

Exception No. 31. The Trial Examiner should have found that:

The illegal seizure of Buildings 3 and 5, the issuance by the Circuit Court of the writ of injunction and writ of attachment and the unsuccessful efforts of the Sheriff to enforce such writs, all of which events occurred between February 17th and the morning of February 19th, were widely publicized by the newspapers of Chicago and Waukegan. The happening of these events was generally known in Lake County, Illinois, particularly among the employees of the Respondent. The men who seized Buildings 3 and 5 on February 17th were able to retain their illegal possession of the buildings until February 26, 1937, only by virtue of food, clothing, beds, bedding, stoves and other articles brought into the buildings for them by persons remaining on the outside. Among the persons so aiding and abetting the occupants of Buildings 3 and 5 in their illegal occupancy and their disre-

gard of the orders and writs of the Circuit Court of Lake County, were the following:

W. D. Crum	William B. Magness
T. E. Fagan	Paul Makovec
Charles Fulkerson, Jr.	Bartol Puntarich
Frank Furlan	Harry Rayner
Evelyn Graimer	John Starovich
John Grom	Mike Zelenick
Joseph Lima	

3082 The conduct of the foregoing persons in aiding and abetting the illegal withholding of Buildings 3 and 5 from the Respondent, in violation of the court orders was contrary to law and in itself constituted a violation of the aforementioned injunctional order of the Circuit Court of Lake County. Upon resumption of operations, Respondent did not, by reason of their aforementioned illegal conduct, recall any of the above listed persons for work, and was under no duty so to do (Rec. 983-95, 1106-7, 1062-72, 1182, 1031, 1039, 1087-9, 1097, 1363, 1591, 632).

Exception No. 32. There is no evidence to support Findings 71 to 77, both inclusive.

Exception No. 33. The Trial Examiner should have found that:

(a) Of the thirty men listed in Finding 75, the following actively participated in the illegal seizure of buildings 3 and 5 on February 17, 1937, and the retention of such buildings until February 26, 1937, the disregard of the Injunctional Order of the Circuit Court of Lake County, the resistance with force and violence of the Sheriff of Lake County in his attempts to enforce said Writ of Injunction and Writ of Attachment and the destruction of property in connection with such activities:

Steve Ark	Nate Mogel
Nick Bankowisch	Frank Museck
Joseph Chudy	Anton Nagode
John Cudith	Merritt Pratt
Angelo Galbavy	Joseph Richveis
Fred Hensley	Andrew Rode
Edward Kaucic	Alvar Romppaine
Tony Koncilja	Ed Ruck
John Kondrath	Alan White
Frank Latz	Frank Zelenick
Steve Luczo	

3083 All of the foregoing men were discharged on the evening of February 17, 1937, for proper cause, namely their illegal and violent seizure of buildings 3 and 5 (R. Ex. 1, 2, 7). Upon such discharge said persons were no longer employees of the Respondent, and Respondent was under no duty to re-employ them or to offer so to do. Even if the said men had not been discharged, Respondent would have been, by reason of their participation in such unlawful activities, entirely justified in refusing to recall said persons to work.

(b) The following persons listed in Finding 75 aided and abetted the men in occupancy of buildings 3 and 5 from February 17th to February 26, 1937, in illegally retaining possession of such buildings, in disregarding the orders and writs of the Circuit Court of Lake County and resisting the Sheriff of Lake County in his attempts to enforce said writs:

W. D. Crump	Paul Makovec
Charles E. Fulkerson, Jr.	Bartol Puntarich
Frank Furlan	John Starovich
John Grom	Mike Zelenick
Joseph Lima	

By reason of that unlawful conduct, the respondent was under no duty, upon the restoration of its plant on February 26, 1937, to offer work to any of such persons. (See record citations in Exception 31.)

(c) Upon the resumption of operations by the respondent, all of said persons voluntarily absented themselves from respondent's plant and refused to return to work. Respondent was not and is not now under any duty to reinstate or offer to reinstate any of the foregoing persons as employees of the respondent.

(d) From the time of his eviction from the Respondent's plant on February 26, 1937, to the time of the hearing, 3084 Tony Koncilja was ill, and by reason of such illness, was not able to perform any work (Rec. 1440).

(e) By reason of the foregoing facts and the further fact that respondent made no general call for a return of its employees, upon the resumption of its operations, limiting its call to certain key employees approximating ten per cent of the total (Rec. 1892), respondent is not and was not under any duty to reemploy or reinstate the above listed persons.

(f) The failure of the respondent to reemploy or reinstate the foregoing persons, upon resumption of operations, was in no respect determined by or related to their membership in Lodge 66 or their participation in any legal union or other



concerted activities for the purposes of collective bargaining or other mutual aid and protection.

**Alleged Refusal to Reinstate Certain Four Employees.**

Exception No. 34. There is no evidence to sustain Findings 78 to 82, both inclusive. The Trial Examiner should have found that:

(a) John W. Jackoway, Arvo Romppaine, Luther Small and Paul Wells were properly discharged for cause on February 17, 1937 (R. Ex. 1, 2, 7). Without being under any duty so to do, the Respondent did, following its resumption of operations, offer to reemploy unconditionally each of said persons, which offers they declined to accept (Rec. 624, 808, 826, 621).

(b) Respondent is under no duty now to reemploy any of said four persons.

**3085 Alleged Refusal to Reinstate Certain Five Employees.**

Exception No. 35. There is no evidence to sustain Findings 83 to 88, both inclusive. The Trial Examiner should have found that:

(a) Fern Gartley, Evelyn Graimer, Vivienne Johnson, and Marguesite Seifert were not recalled for work by the Respondent solely upon the ground that they were not efficient and cooperative.

(b) All of said four women admitted that they were unwilling to return to work when the plant resumed operations, and stated further that an offer to reinstate them would not have been accepted.

(c) Fern Gartley's production rate was 25% below the average of other girls and 40% below the high rate. Her average approximately 50 to 65% of the average production rate after resumption of operations (Rec. 1990-1991). Her supervisor had warned her that she would have to leave unless she improved, and testified further that "she never made any improvement so, in making adjustments, I never called her back" (Rec. 2009).

(d) Evelyn Graimer did satisfactory work in a team with another girl on piece work basis but her supervisor had no confidence in her work alone on an hourly basis (Rec. 1976).

(e) Vivienne Johnson's inspection average on one-half of her operations during February was 40% below the average. She was a "spasmodic worker . . ." and used to choose her own work and boss the other girls too much for her own

good" (Rec. 2008). The replacement of men with women in the cutting department made unnecessary the inspection work previously performed by Vivienne Johnson (Rec. 2026).

3086 (f) Tillie Mesec was asked to return to work without any conditions but refused so to do. Tillie Mesec's testimony indicates that her work was such that she expected, upon returning to work, to be transferred to other duties. That accounts for the statement with respect to her inefficiency in the Answer.

(g) Marguerite Seifert's work was 10% to 15% below the average for February and a considerably greater percentage below the production rates of March, April and May (Rec. 1989). Her superior testified that "she was not an efficient worker" (Rec. 2008). Her work was no longer necessary as a result of the replacement of men by women in the cutting department (Rec. 2026).

(h) The record shows that the Respondent had no knowledge of the union membership of these five women, and no showing of any union activity on their part was made (Rec. 1976-7, 2012).

#### **Alleged Refusal to Reinstate Bessie Luczo.**

Exception No. 36. Findings 89 to 92, both inclusive, are not supported by any evidence. The Trial Examiner should have found that:

(a) Bessie Luczo was an inspector in the wire department, who did not join the union until March 3, 1937, after the plant had reopened. She did not engage in any union activities and did not discuss her union membership with anyone in the plant (Rec. 1172).

(b) Bessie Luczo voluntarily absented herself from the plant after the resumption of operations and declined to resume her duties. Respondent's failure to reinstate Bessie Luczo was in no way related to her union membership or to any union or collective bargaining activity.

#### **3087 Alleged Refusal to Reinstate Joan Bissonnette and Frances Fellens.**

Exception No. 37. Findings 93 to 97, both inclusive, are not supported by any evidence. The Trial Examiner should have found that:

(a) Joan Bissonnette's average work was from 25 to 50%



below the average by others (Rec. 1991). Her supervisor testified that "she was very slow and didn't turn out very much and needed supervision all the time" (Rec. 2009). Miss Bissonette admitted that she had been criticized by her supervisor for her attitude but that union membership or activity had never been mentioned. Her supervisor added that the criticism of attitude was due to her failure to apply herself to her work and her tendency "to do an unusual lot of loafing" (Rec. 2016). She engaged in no union activities (Rec. 1615).

(b) Frances Fellens did well on piece work but "did not put forth her best efforts on hourly work." Piece work had been abolished on the reopening of the plant. Her supervisor also found that Miss Fellens was "always agitating trouble. She seemed to make remarks about this one and that one and I think that when that tension is in the department no one can do the work that is required of them." Her supervisor did not know Miss Fellens was a member of the union and no evidence of union activity was offered (Rec. 1975).

(c) The charge in the Complaint that Miss Bissonette and Miss Fellens were discharged and refused employment by reason of union membership and activity was not sustained by any evidence.

3088

*Reorganization of Contact Department.*

Exception No. 38. There is no evidence to sustain Findings 98 to 104, both inclusive. The Trial Examiner should have found that:

(a) The principal competitors of the Respondent in the contact point business have, for a considerable period of time, employed women in cutting, spinning and grinding work. In consequence thereof, they enjoyed lower costs and a competitive advantage over the Respondent. In order to meet such competition, the Respondent reorganized the contact department upon the reopening of its plant and employed women to do grinding, spinning and cutting work in lieu of sixteen men who had previously performed such work (Rec. 1844, R. Ex. 20). As a result of such change, the Respondent effected a very substantial saving in several respects—first, the wage scale for women was 45¢ an hour compared with 75¢ an hour for men; second, women, enjoying the advantage of a more sensitive touch, turned out a better product, reduced waste and reduced inspection costs; and, third, the women used less

cutting discs, saving thereby in the expense of material. Respondent enjoyed a reduction in cost approximately 50% as a result of such reorganization (R. Ex. 21, 22).

(b) The reorganization in the contact department and the change from men to women for the cutting, grinding and spinning jobs was made for the bona fide purpose of effecting an operating saving for the Respondent and for no other purpose whatsoever. By reason of such change Respondent was unable to continue the employment of any men in such jobs.

(c) The men who had formerly occupied the jobs in the contact department for which women had been employed pursuant to the reorganization were (1) Ed Brunke, Al Bunton, Phil Graimer, Stanley Grum, Victor Hertel, John Praski, Frank Scheuer, Elmer Luke, Leo P. Daluga, and Harold Dreyer, all of whom had participated in the illegal seizure of buildings 3 and 5 and had been discharged for that reason, and (2) Charles E. Fulkerson, Sr., T. E. Fagan and William D. Magness, who had actively aided and abetted in the illegal retention and possession of such buildings during the period from February 17th to February 26, 1937, in violation of the Writ of Injunction of the Circuit Court of Lake County and of the statutes of the State of Illinois. Respondent was under no obligation to offer reemployment to any of these men either in the contact or any other department of its business. Failure to offer such reemployment to these men was in no way related to their membership in Lodge 66 or their participation in any legal concerted activities for the purpose of collective bargaining or other mutual aid and protection.

#### Abolition of Maintenance Department.

Exception No. 39. There is no evidence to support Findings 105, 107, 108 and 109. The Trial Examiner should have found that:

(a) Upon reopening its plant, the Respondent abolished its maintenance department for the bona fide purpose of effecting a saving in operations and employed only one carpenter, one electrician and two helpers for minor services (Rec. 1842, 1854).

(b) The men who had formerly occupied these jobs which had been abolished were Andrew Anderson, Ted Christianson, Eugene D. Hendee, Art Holm, Jr., Oscar Johnson, Carl

A. Swanson, Lester Crump, Vincent Ditmeyer, Charles 3090 Warner, Jerome Camernicke, Jr., and Fred Yaeger. All of these men had been discharged on February 17, 1937, for participating in the illegal seizure of buildings 3 and 5 and refusing to surrender them to the Respondent upon its demand (R. Ex. 23). Following their discharge all of these men continued in their illegal occupation of buildings 3 and 5 until February 26th, disregarding the Writ of Injunction of the Circuit Court of Lake County and resisting with violence the attempts of the Sheriff of Lake County to enforce the Writ of Injunction and the Writ of Attachment.

(c) None of the aforementioned men applied for re-employment, and they would not have accepted employment if offered, unless all men employed by the Respondent on February 17, 1937, were reemployed regardless of the reason for their discharge.

(d) The Respondent was not, and is not now, under any duty to offer employment to said men in their former or in new or different capacities in the Respondent's plant, and its failure so to do in no way contravenes the National Labor Relations Act.

#### Tool Room Employees.

Exception No. 40. There is no evidence to support the second sentence of Finding 110 or Findings 111 to 114, both inclusive. The Trial Examiner should have found that:

(a) Upon the reopening of the plant, the Respondent abolished all jobs in the tool room relating to the manufacture of standard dies for its plant requirements (Rec. 1842-3). By procuring such dies to be made by mass production machine methods in plants especially equipped for that purpose, the Respondent succeeded in effecting a saving. Such reorganization in the tool room was designed and carried out for the bona fide purpose of effecting an operating saving. 3091 ing. As a result, six jobs, formerly held by R. E. DuBois, Frank Moxey, Ted Olson, Paul Wells, Joe Petraities and Harry Rayner were abolished (Rec. 1855, 1893, R. Ex. 24).

(b) All of the aforementioned men whose jobs had been abolished in the tool room, other than Harry H. Rayner, had been properly discharged on February 17, 1937, for their illegal seizure and retention of buildings 3 and 5. Harry Rayner admitted aiding and abetting those within the build-

ings to retain possession thereof from February 17th to February 26th. None of these men applied for reemployment but testified that they were unwilling to return unless all men who had been employed on February 17, 1937, were reemployed regardless of the cause for their discharge.

(c) The Respondent was not, and is not now, under any duty to offer employment to said men in their former or in new or different capacities in the Respondent's plant, and its failure so to do in no way contravenes the National Labor Relations Act.

(d) Joseph Hoff, seventy-six years old, handed out tools to workmen from the crib, and Joseph Aigner, seventy-four years old, served as janitor on the tool room floor. Upon the reopening of the plant both of these men were replaced by one man, twenty-three years old. The tool room foreman testified that Hoff and Aigner were replaced at his request and that their younger successor did the work of both and, in addition, had time available for small production jobs (Rec. 2038). He further testified that when the matter was discussed with the plant superintendent, union membership was not even mentioned, and admittedly neither of these elderly men engaged in any union leadership or activity. They were not reinstated solely by reason of their inefficiency and Respondent is under no duty to reinstate them.

3092 Rare Metal Workers of America, Local No. 1.

Exception No. 41. There is no evidence to support Findings 119 to 125, both inclusive. The Trial Examiner should have found that:

(a) Since the resumption of operations in March, there have been discussions among the Respondent's employees of the desirability of organizing their own union to continue independently or as an affiliate of the American Federation of Labor (Rec. 1562). Rare Metal Workers of America, Local No. 1, was organized by a committee consisting solely of hourly employees. After the hourly shop employees held a meeting, they announced their overwhelming approval of such organization. They were guided by independent counsel selected and paid by them. No member of the management in any way participated in, or interfered with, the organization of the union (Rec. 1562-4, 1568).

(b) No member of the management aided, encouraged or in any respect participated in the organization of the union

prior showing of improper or illegal discharge (Rec. 714-26) and the motion of the Respondent to strike such testimony with respect to reinstatement (Rec. 1636-44).

Exception No. 50. The Trial Examiner erred in overruling the Respondent's motion to strike the testimony of Art Holm, Sr. (Rec. 639) and the motion of the Respondent to dismiss the Complaint with respect to said Holm (Rec. 1647).

Exception No. 51. The Trial Examiner erred in overruling the motion of the Respondent to exclude testimony with respect to offers of Lodge 66 to negotiate in March, 1937 (Rec. 645-7) and the objections of Respondent to Exhibits 25 (Rec. 643-4), 26 (Rec. 649), 27 and 28 (Rec. 651) and 25-A and 26-A (Rec. 1632).

Exception No. 52. The Trial Examiner erred in overruling the following objections of the Respondent:

(a) Objections to the entire line of questioning of Witness Aitchison on the National Metal Trades Association membership, constitution and declaration of principles (Rec. 424, 433), and motion to strike testimony of Witness Abbott (Rec. 497-8).

(b) Objections to questions regarding construction of fence on Respondent's property (Rec. 451-2) and motion to strike testimony with respect thereto (Rec. 453).

(c) Objections to evidence respecting employees who had been offered reemployment without condition (Rec. 806) and motion to exclude evidence in connection therewith Rec. 1636-47).

(d) Objections to testimony respecting earnings of men who had been discharged by the Respondent for good cause (Rec. 208).

3096 (e) Objection to the hearsay testimony of Meyer Adelman respecting conversations between Respondent and others (Rec. 2383-7, 2400).

(f) Objections to testimony by Witness Adelman as to rules of Amalgamated Association of Iron, Steel and Tin Workers of North America respecting the admission of lodges without the production of the constitution, articles of association, by-laws, regulations or other writings containing such rules (Rec. 220).

Exception No. 53. The Trial Examiner erred in overruling the Respondent's objections to the following exhibits of the Board and admitting such exhibits into evidence:



Nos. 9 and 10

Rec. 180-2

1-J, 1-K, 1-L,

Rec. 361

1-M and 1-N

Rec. 365-7, 369

18, 19 and 20

Rec. 440

21

Rec. 442

22

Rec. 444

23

Rec. 449, 450

24

Exception No. 54. The Trial Examiner erred in admitting into evidence hearsay, without verification, respecting matters within the knowledge of witnesses who either testified on other matters during the hearing or were otherwise available to the Board. Such error was prejudicial in that evidence was received without verification or substantiation and the Respondent was deprived of an opportunity of proper cross-examination.

Exception No. 55. The Trial Examiner erred in admitting oral testimony as to the contents of books, records and other writings in the possession, or under the control, of the witnesses testifying for the Board. (For example, Rec. 3097 2185-7, 228-9). Such error was prejudicial in that evidence was received without any verification or substantiation and the Respondent was deprived of an opportunity of verification and proper cross-examination.

### *Prejudicial Conduct of the Trial Examiner.*

Exception No. 56. By his statements, conduct and rulings throughout the hearing, the Trial Examiner exhibited prejudice against the Respondent and unmistakable partisanship in favor of Lodge 66. Notwithstanding that the same parties, the same counsel and the same witnesses were engaged in trial before the Circuit Court, the Trial Examiner denied the Respondent's motion to adjourn the hearing until the completion of the court trial (Rec. 15). Only the intervention of an injunction by the Circuit Court saved the Respondent from the necessity of proceeding in two separate hearings on the same subject matter at the same time (Rec. 37). Respondent's request for subpoenas and subpoenas duces tecum were delayed for days by the Trial Examiner, and, when finally submitted to the Board, were accompanied by the Examiner's limitations and unfavorable expressions (Bd. Ex. I-S I-T). Witnesses testifying from memory as to the contents of records were encouraged by the Examiner to refuse to produce such records (Rec. 240-1, 338-41, 2168-74,

2185, 2187, 2218). Counsel for the Respondent were interrupted in their cross-examination of hostile witnesses by the Trial Examiner, who himself interposed questions or permitted counsel for the Board so to do for the purpose of influencing the testimony of the witnesses and interfering with the Respondent's conduct of its defense (Rec. 250-5). At the conclusion of the examination of numerous witnesses, the Trial Examiner in effect testified, himself, by the use of prompting and leading questions which placed in the mouths of witnesses words that had not been before uttered under a thorough and searching examination and cross-examination by counsel for both sides (Rec. 263, 2396, 3098, 175). Throughout the hearing, the Trial Examiner sought to limit and minimize the testimony respecting the violence and other illegal acts attendant upon the sit-down strike (Rec. 351, 406-7). While limiting the cross-examination by the Respondent to the subject matter of the direct examination, the Trial Examiner extended to the Board wide and unlimited scope upon cross-examination (Rec. 667, 2041, 2051). The conclusion is inescapable that the Trial Examiner entered upon the hearings with a definite design and purpose of submitting a report unfavorable to the Respondent without regard to the evidence. There is no warrant on this record for the statement on Page 4 of the Intermediate Report that "full opportunity to be heard, to cross-examine witnesses and to produce evidence bearing upon the issues was afforded to the parties."

## V.

### Conclusion.

Respondent respectfully submits that the findings, conclusions and recommendations of the Trial Examiner are not sustained by the evidence as hereinbefore pointed out in these exceptions, and respectfully asks that the same be vacated, set aside or modified in accordance with these exceptions. Respondent requests an opportunity to submit briefs to the Board.

Fansteel Metallurgical Corporation,  
By R. J. Aitchison,  
*President.*

Levinson, Becker, Peebles & Swiren,  
Sidney H. Block,  
*Counsel for Fansteel Metallurgical  
Corporation, Respondent.*



3099 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

• • (Caption—XIII-C-80) • •

MOTION TO EXTEND TIME OF FILING STATEMENT  
OF EXCEPTIONS.

Lester F. Collins,  
*Attorney for Lodge 66 of the  
Amalgamated Association of  
Iron, Steel and Tin Workers  
of North America.*

3100 MOTION TO EXTEND TIME FOR FILING  
EXCEPTIONS TO THE INTER-  
MEDIATE REPORT.

Now comes Lodge 66 of The Amalgamated Association of Iron, Steel and Tin Workers of North America, by Lester F. Collins, its Attorney, pursuant to Section Thirty-four (34) National Labor Relations Board Rules and Regulations, Series One (1) as amended, dated April 27, 1936, and moves to extend the time for Filing a Statement of exceptions to the Intermediate Report herein to date of September 22nd, 1937, and for a proper cause, says:

1. That said statement of exceptions was mailed September 17th, 1937, by Registered letter, and delivered September 20th, 1937, to the National Labor Relations Board, Washington, D. C.

2. That the undersigned, on date of September 13th, 1937, was informed by Leonard C. Bajork, Acting Regional Director for the Thirteenth Region that the Respondent, the Fansteel Metallurgical corporation, had been granted an extension of time, to file their Statement of Exceptions to the Intermediate Report herein, from September 7th, 1937, to September 17th, 1937.

3. That the undersigned received instructions to file a Statement of Exceptions to the Intermediate Report on September 17th, 1937, from Lodge 66 Petitioner herein and that said Statement of Exceptions were mailed by Registered Letter on said date of September 17, 1937 as per Affidavit attached hereto and made a part hereof as Exhibit "A".

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*Motion to Extend Time.*

Now, Therefore, the Under-signed, as Attorney for Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America, respectfully moves the National Labor Relations Board for an Order granting an extension of time within which to file a Statement of Exceptions to the Intermediate Report, from September 7th, 1937, to September 20th, 1937, the last date being the date of the receipt of a Statement of Exceptions by Lodge 66, Petitioner herein, 3101 and that said Board consider said Exceptions heretofore filed herein.

Lester F. Collins,  
*Attorney for Lodge 66 of the  
A. A. of I. S. & T. W. of  
N. A.*

State of Illinois, }  
County of Lake. } ss.

Lester F. Collins, Attorney for the Petitioner herein, being first duly sworn, on oath deposes and says that he has read the above and foregoing Motion by him subscribed; that he knows the contents thereof and that the same are true.

Lester F. Collins,  
*Affiant.*

Subscribed and Sworn to this 4 day of October, 1937, A. D.  
Joseph Kaufer,  
(Seal) *Notary Public.*

EXHIBIT "A".

Registered Return Receipt
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3102 BEFORE THE NATIONAL LABOR RELATIONS BOARD.  
• • (Caption—XIII-C-80) • •

STATEMENTS OF OBJECTIONS AND EXCEPTIONS  
OF LODGE 66 OF THE AMALGAMATED ASSOCIATION  
OF IRON, STEEL AND TIN WORKERS OF  
NORTH AMERICA.

Lester F. Collins,  
*Counsel for Lodge 66 A. A. of  
I. S. and T. W. of N. A.*

3103 Lodge 66 of the Amalgamated Association of Iron,  
Steel and Tin Workers of North America, Complainant  
in the above entitled cause does hereby make objection and  
takes exception to the Intermediate Report by Tilford E. Dud-  
ley, Trial Examiner, dated September 2nd, 1937, as follows:

First: The Maintenance Department.

While the Trial Examiner's Intermediate Report, sections  
105, 107, 108, and 109, finds that eleven men, in the mainte-  
nance department, namely:

Carpenters

Andrew Anderson  
Ted Christianson  
Eugene D. Hendee  
Art Holm, Jr.  
Oscar Johnson  
Carl A. Swanson

Electricians

Lester Crump  
Vincent Deitmeyer  
Charles Warner  
Electrician's Helper  
Jerome Camernick, Jr.

Steamfitter  
Fred Yeager

were not reemployed because the Fansteel Metallurgical Cor-  
poration had let all of said work out on contract to carpenters,  
electricians and others, because they contended that they  
saved money; nevertheless, Complainant, Lodge 66 of the  
Amalgamated Association of Iron, Steel and Tin Workers of  
North America, contends that said finding is contrary to the  
evidence and erroneous for the following reasons:

a. A. J. Anselm, plant superintendent, testified that since  
the reopening of the plant in March, 1937, they had employed  
an electrician at wage of \$1.00 per hour.

b. That since the conclusion of the hearing on June 25,  
1937, the Respondents, the Fansteel Metallurgical Corpora-  
tion, has employed a foreman in the maintenance department;

that said foreman is on the regular payroll; that they (the Respondent) have hired four regular full time employees in said maintenance department who do carpenter work, mill wright work, cabinet work, plumbing, steamfitting and electrical repair work.

Second: Tool Room Employees.

The Trial Examiner's Intermediate Report, heretofore filed herein, in sections 110, 111 and 112, finds that five men in the Tool Room namely, viz: Raymond DuBois, Theodore Ohlson, Joseph Aigner, Joseph Petraitis, and Harry H. Rayner, were discharged because their jobs were abolished and a great part of their work was being let out on contract (P. 1855), to 3104 cut down on expenses.

The Amalgamated Association of Iron, Steel and Tin Workers of North America contends that said finding is erroneous in the light of additional and newly discovered facts arising since the conclusion of said hearing, had before the Trial Examiner, in this:

a. That the National Metal Trades Association, since the conclusion of said hearing, has caused advertisements to be placed in Chicago Newspapers seeking tool room employees for the Fansteel Metallurgical Corporation of North Chicago, Illinois.

b. That since said hearing the Respondent, the Fansteel Metallurgical Corporation, has employed machinists through the National Metal Trades Association of Chicago, Illinois, who are now permanently employed in the Tool Room of the Respondent's Company.

Wherefore, Complainant, the Amalgamated Association of Iron, Steel and Tin Workers of North America, respectfully submits that the Trial Examiner's Intermediate Report dated September 2, 1937, is objectionable in regard to paragraphs 105, 107, 108, and 109 in the section on The Maintenance Department and in regard to paragraphs 110, 111, 112, 113 and 114 inclusive in the section of Tool Room Employees, and respectfully ask that said two sections be modified in conformity herewith; that said National Labor Relations Board order the immediate reinstatements of the men heretofore named in said sections, to their former positions or equivalent employment on a full time basis, with all rights and privileges previously enjoyed, and that said Board further make said employees whole for any loss of pay they have suffered by reason of the refusal to reemploy them by payment to them re-

*Order Extending Time.*

1943

spectively, of sums equal to those which they normally would have earned as wages at their respective positions during the period from the date of the reopening of the plant, namely: March 12, 1937, to the date of such offer of employment less amounts earned by them respectively during such period; and that said Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America be permitted to submit additional proof, if deemed necessary by said National Labor Relations Board, all in accordance with said objections and exceptions, and according to the rules, regulations 3105 and Orders of said Board in relation hereto.

Respectfully submitted,

Lodge 66 of the Amalgamated Association of Iron, Steel and Tin Workers of North America,

By: Sgn. Lester F. Collins,  
*Attorney for said Lodge 66.*

Lester F. Collins,  
218 Washington St.,  
Waukegan, Illinois.  
Telephone: Majestic-5482.

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UNITED STATES OF AMERICA,

Before the National Labor Relations Board.

In the Matter of	}	Case No. C-235.
Fansteel Metallurgical Company,		
and		
Local 66 of Amalgamated Association of Iron, Steel and Tin Workers of North America.		

**ORDER.**

An Intermediate Report having been issued in the above case and duly served upon the parties and the respondent having filed its exceptions to the Intermediate Report on September 17, 1937, and the Amalgamated Association of Iron, Steel & Tin Workers of North America having mailed its exceptions to the Intermediate Report on September 17, 1937, said exceptions having been received by the Board on Sep-

tember 20, 1937 and said Amalgamated Association having thereafter moved for an extension of its time to file its exceptions and having requested the Board to accept the exceptions heretofore filed, and the Board having duly considered the matter,

It Is Hereby Ordered that the time of the Amalgamated Association to file exceptions to said Intermediate Report be and hereby is extended and that the exceptions heretofore filed be and hereby are accepted.

Dated, Washington, D. C., October 9, 1937.

By direction of the Board:

(Seal)

Benedict Wolf,  
Benedict Wolf,  
Secretary.

3108 BEFORE THE NATIONAL LABOR RELATIONS BOARD.

\* \* (Caption—XIII-C-80) \* \*

*Decided March 14, 1938.*

*Rare Metal Products Manufacturing Company—Interference, Restraint, or Coercion:* anti-union statements; use of labor spy; isolation of Union president; attempt to induce employees to renounce Union and institute employee representation plan—*Collective Bargaining:* flat refusal to deal with "outside" union as representative of employees—*Strike:* brought on by employer's unfair labor practices—*Discrimination:* alleged refusal to reinstate strikers; charges of, dismissed, due to failure of strikers' committee to make request for reinstatement—*Company-Dominated Union:* result of employer's prior efforts to institute "inside" union in plant; sponsorship, denomination, and interference with formation and administration of; support of; mimeographing and typing services furnished by employer; use of company building for meetings and balloting; contrast between hostility to Union and open favoritism toward company-dominated organization; disestablished as agency for collective bargaining—*Reinstatement ordered:* strikers, upon application employer's contention that participation in sit-down strike should preclude reinstatement, found without merit under circumstances—*Discharge Ordered:* Employees hired during and after strike if necessary to make room for employees re-



instated—*Back Pay*: awarded to strikers whose applications for reinstatement are refused by employer.

*Mr. William R. Walsh*, for the Board.

*Levinson, Becker, Peebles & Swiren*, by *Mr. Max Swiren* and *Mr. Harold M. Keele*, of Chicago, Ill., and *Mr. Sidney H. Block*, of Waukegan, Ill., for the respondent.

*Mr. Lester Collins*, of Waukegan, Ill., for the Union.

*Mr. Lewis M. Gill*, of counsel to the Board.

## DECISION

### AND ORDER

#### STATEMENT OF THE CASE

Upon charges and amended charges duly filed by Meyer Adelman, organizer for Amalgamated Association of Iron, Steel, and Tin Workers of North America, Local 66, 3109 herein called the Union, the National Labor Relations Board, herein called the Board, by Leonard C. Bajork, Regional Director for the Thirteenth Region (Chicago, Illinois), issued its complaint dated May 25, 1937, against Fansteel Metallurgical Corporation, North Chicago, Illinois, herein called the respondent, alleging that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), (3), and (5) and Section 2 (6) and (7) of the National Labor Relations Act, 49 Stat. 449, herein called the Act.

The complaint and accompanying notice of hearing were duly served upon the respondent and the Union. On June 2, 1937, the respondent filed an answer to the complaint denying the unfair labor practices charged, alleging that all of its manufacturing operations are intrastate in character, and praying that the complaint be dismissed.

Pursuant to the notice, a hearing was held at Waukegan, Illinois, from June 7 to June 25, 1937, before Tilford E. Dudley, the Trial Examiner duly designated by the Board. The Board, the respondent and the Union were represented by counsel and participated in the hearing. Full opportunity to be heard, to examine and cross-examine witnesses, and to produce evidence bearing upon the issues was afforded all parties.



During the hearing, the respondent moved for dismissal of the complaint in so far as it was inconsistent with an order and decree of the Circuit Court of Lake County, Illinois, relating to a sit-down strike in the respondent's plant in which certain individuals named in the complaint participated. The Trial Examiner denied the motion on the ground that the issues and parties were not the same and the court's findings not binding upon the Board. This ruling is hereby affirmed. At the conclusion of the Board's case, the respondent moved to dismiss the complaint as a whole and also made numerous motions to dismiss particular parts thereof and to strike certain testimony. Some of these motions, including the motion to dismiss the entire complaint, were denied at the hearing; the Trial Examiner reserved rulings on others until the issuance of his Intermediate Report. A large number of other motions and of objections to the admission of evidence were made during the course of the hearing, both by counsel for the respondent and by counsel for the Board. The Trial Examiner reserved rulings on some of such motions and objections for disposition in his Intermediate Report.

On September 2, 1937, the Trial Examiner filed his Intermediate Report, in which he found that the respondent had engaged in and was engaging in unfair labor practices within the meaning of Section 8 (1), (2), (3), and (5) of the Act, and recommended that the respondent cease and desist its unfair labor practices, reinstate, with back pay, all but ten

of the individuals named in the complaint as having been 3110 discriminated against, bargain collectively with the

Union, withdraw recognition from a company-dominated labor organization, and take certain other appropriate action to remedy the situation brought about by the unfair labor practices. Thereafter, the respondent filed voluminous exceptions to findings and recommendations of the Intermediate Report. The Union also filed exceptions to certain parts of the Intermediate Report. The Board has fully considered the exceptions to the Intermediate Report, and, in so far as they are inconsistent with the findings, conclusions, and order set forth below, finds no merit in them. The Board has also reviewed the rulings of the Trial Examiner on motions and on objections to the admission of evidence and finds that no prejudicial errors were committed. The rulings are hereby affirmed.

Upon the entire record in the case, the Board makes the following:

## FINDINGS OF FACT

## I. THE BUSINESS OF THE RESPONDENT

The respondent is a New York corporation with offices at New York City and at North Chicago, Illinois, where its only plant is located. It is engaged in the manufacture and sale of various products from tantalum, columbium, tungsten, molybdenum, and other rare metals. Its finished products include contact points for ignition systems, tantalum parts for chemical and rayon industries, battery chargers and rectifiers, and special alloy wires for vacuum tubes and radio tubes. Approximately 70 per cent of the raw materials used in the manufacturing processes of the respondent originate in states other than the State of Illinois and in foreign countries. Approximately 70 per cent of its finished products are sold and shipped into states other than the State of Illinois and into foreign countries. The value of its manufactured products during the calendar year of 1936 was about \$1,050,000. The respondent has few competitors in its field, and is in fact the only manufacturer of some of the products it makes.

## II. THE UNION

Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, is a labor organization affiliated with the Committee for Industrial Organization, and admits to its membership hourly paid employees of the respondent. It excludes from membership clerical employees, laboratory men, engineers, and supervisory employees.

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## III. THE UNFAIR LABOR PRACTICES.

A. *Background of the unfair labor practices.*

Until early in July 1936 there was no labor organization in the respondent's plant. Dissatisfaction arose at that time over the introduction into the plant of certain "efficiency experts" who proposed a system of wages based upon certain minima of production. Envisioning a serious danger to their scale of earnings, the employees began seriously discussing organization. A group of employees undertook to establish an industrial union in the plant, and an organization drive

or the solicitation of membership or the conduct and management of its affairs (Rec. 2081, 2082, 2072). No pressure or coercion of any kind was exerted, directly or indirectly, upon any employees to induce them to join, or refrain from joining, the union (Rec. 1400, 1453, 1503, 1510). In no respect did the Respondent dominate, control, interfere with or give financial or any other aid to Rare Metal Workers of America, Local No. 1.

Exception No. 42. Findings 127 and 128 are not supported by the evidence.

3093 With Reference to the Conclusions and Recommendations.

Exception No. 43. All of the conclusions and recommendations are contrary to the record evidence, are based upon improper evidence and matters and are contrary to law.

Exception No. 44. The National Labor Relations Act does not authorize or permit resort by employees to force and violence to accomplish the purposes of the Act. Even if the record evidence could be interpreted to sustain the Trial Examiner's findings that the Respondent failed to bargain collectively with its employees on February 17, 1937, as required by the National Labor Relations Act, their sole remedy was to seek redress therefor in a peaceful and orderly proceeding as provided in the Act—and not by the performance of illegal and criminal acts, namely, the seizure and retention of Respondent's plant. The Trial Examiner's recommendations that the Respondent be required to reemploy men discharged for illegal seizure and retention of its plant and reinstatement who aided and abetted in the illegal retention and possession of its plant are based upon the assumption that the mere failure of the Respondent to bargain collectively justifies, as a matter of law, the illegal seizure and retention of Respondent's plant and bars the employer from exercising the right of discharge of such men for such conduct. In effect, the conclusions and recommendations of the Trial Examiner approve and condone resort to violence and other illegal and criminal acts for enforcement of demands, instead of the orderly remedy provided by the Act.

Exception No. 45. The burden of proving that any employees were discharged or not recalled to work by reason of union membership or union or other activities author-

ized or guaranteed by the National Labor Relations Act rests entirely upon the Board, but by the conclusions and recommendations of the Trial Examiner, such burden of proof has, in effect, been thrust upon the Respondent.

3094 Exception No. 46. In the absence of a clear showing of discrimination by reason of union membership or activity, the determination of inefficiency of an employee by the management, and its decision not to reemploy or recall such employee for work, is not subject to review by the Trial Examiner or the Board under the National Labor Relations Act.

Exception No. 47. The recommendations of the Trial Examiner that the Respondent be ordered to withdraw all recognition from the Rare Metal Workers of America, Local No. 1, as representative of its employees, and further ordering the Respondent to disestablish the said Rare Metal Workers of America, Local No. 1, were made without authority of law and were not supported by the evidence. The Board is without power or authority to enter any order directing with what agency the Respondent must engage in collective bargaining because there is no basis in the complaint for such an order and, further, there is no warrant in the Act for such action, the said Rare Metal Workers of America, Local No. 1, not having been made a party to said proceeding and not having been given the opportunity of a hearing. Without such hearing, and a proper proceeding under section 9 of the Act, all said recommendations with reference to the disestablishment of said union are contrary to law and the provisions of the National Labor Relations Act.

#### IV.

#### Exceptions to Rulings on Motions, Objections and Other Matters.

Exception No. 48. The Trial Examiner erred in overruling the motion to dismiss the Complaint presented by the Respondent at the close of the Board's case and renewed at the close of the entire proceeding. Such motion to dismiss, appearing on pages 1650 to 1659 of the record, is incorporated herein by this reference thereto.

3095 Exception No. 49. The Trial Examiner erred in overruling the motion of the Respondent to exclude testimony with respect to reinstatement of employees without a

was conducted under the guidance of Meyer Adelman, an organizer for the Steel Workers Organizing Committee of the Amalgamated Association of Iron, Steel and Tin Workers of North America. A charter, designating the Union as Lodge 66 of the Amalgamated and dated July 24, 1936, was presented to the Union on August 14, 1936. A skeleton organization had been set up prior to the receipt of the charter; temporary officers had been elected, and a substantial beginning toward organizing the employees of the respondent had been made.

*B. Interference, restraint, and coercion.*

On the morning of September 10, 1936, John Kondrath, an employee of the respondent and president of the Union, requested A. J. Anselm, the respondent's plant superintendent, to meet with a committee of the Union. Anselm specified that only employees of five years' standing should be on the committee. This condition, it happened, was satisfied at the time. While much grosser examples of anti-union conduct followed, we may point out here that the imposition of such a condition on the personnel of the Union committee was totally unwarranted. The right of employees, guaranteed by the Act, to representatives of their own choosing necessarily negatives any privilege on the part of the employer to place limitations upon the representatives whom the employees are permitted to designate.

At any rate, a committee of six employees, including Kondrath, met with Anselm that afternoon. A contract<sup>1</sup> was presented for his consideration. It embodied certain provisions for improvements in working conditions, for a closed-shop and check-off, for recognition of and bargaining with the Union. Anselm read it over, and objected to the closed-shop and check-off provisions. However, he by no means limited his remarks to such legitimate subjects of objection and negotiation. He announced that it was the policy of the respondent to refuse recognition to any union with "outside influences." Producing several copies of a booklet<sup>2</sup> setting forth details of an employee representation plan, he handed them out to the committee and asked them to consider such a plan in lieu of the form of organization they had chosen. He did not raise the question of whether the

<sup>1</sup> Board Exhibit No. 12.

<sup>2</sup> Board Exhibit No. 12.



Union represented a majority of the employees in an appropriate unit; he made it clear that the respondent's policy was to refuse recognition to "outside" unions.

Several employees who were present at this conference testified to the above facts, and no controverting testimony was presented by the respondent, although Anselm was present at the hearing and in fact testified at some length on other phases of the case. In its exceptions to the Intermediate Report of the Trial Examiner, however, the respondent urges a finding that by "union recognition" Anselm was referring merely to the closed shop. This peculiar construction of his remarks was not suggested at the hearing, and we would be disregarding the evidence if we adopted it. As a matter of fact, another proposed contract,<sup>3</sup> with the closed-shop provision eliminated, was presented by the committee subsequently, to no avail. However, the evidence clearly shows that regardless of terms, Anselm announced an unqualified opposition to outside unions.

If any doubt remained in the minds of the employees as to Anselm's views on the point, it was removed on the occasion of the committee's next visit to his office on September 21, 1936. This time the Union had duly voted to include Adelman, the "outside" organizer, on the committee. Pursuant to an appointment which they understood to have been made for them by a representative of the Board, the committee proceeded to Anselm's office and were shown inside. Anselm was out for the moment but soon returned. Adelman was introduced to him by Ed Ruck, one of the employees on the committee. The conference was short-lived. The testimony of several of the committee members who were present is practically identical as to Anselm's remarks when Adelman was introduced. The testimony of John Kondrath in that regard is as follows:

Mr. Anselm said, "I have nothing to do with this gentleman here. He is not on my pay roll." And he says, "Therefore, I don't want to have any discussion with him. He better go out and present his card and wait out in the lobby, and then maybe I will leave him in."

Well, Meyer Adelman told Mr. Anselm he had no calling cards, but that he thought that the committee that had brought him in there was better than any calling cards he could have.

Mr. Anselm got kind of upset and told him to leave,

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<sup>3</sup> Board Exhibit No. 17.

and get out. He says, "Get out of here. We don't want you", or words to that effect.

3113 So then Mr. Meyer Adelman went out, and Mr. Anselm was very excited and angry, and wanted to know who brought him in.

After Adelman's departure, Anselm denied that any appointment had been made, and the committee withdrew.

The anti-union conduct of the respondent by no means was limited to the occurrences described above. The expressions of hostility to the Union were supplemented by a prompt and aggressive attempt on the part of the respondent to foist upon its employees a company-dominated union.

We have already noted that at the September 10 conference Anselm sought to interest the committee in an employee representation plan. The afternoon of the same day Anselm had conversations with Thomas Fagan, Ted Daluga, and Clarence Dreyer, three employees in the cutting department, relative to the contract proposed by the Union. Fagan and Dreyer testified that Anselm tried to induce them to drop the Union and to sign a petition for a company union. Anselm denied this and testified that he merely was trying to ascertain whether they understood the full import of the provisions of the contract. As to the petition referred to by Fagan and Dreyer, he testified that it was not circulated that day, but admitted that he caused such a petition, relating to a company representation plan, to be circulated three or four days later. According to his own testimony, this petition "called for an expression from the employees, if they favored that plan." He testified further that his object in circulating the petition was to "find out what the boys down in the shop were thinking about."

The circulation of the petition was vigorously conducted, during working hours. Anselm himself and a number of foremen participated. Uncontradicted evidence shows that Hall, a "straw boss," told Zelenick, an employee, that "we are trying to form a company union . . . you might as well sign up . . . The company will never recognize the outside union anyway," and that Schardt, a foreman, remarked to Steve Luczo, another employee whose signature Hall was soliciting, "Steve, you are better off if you sign for the company union." Other employees were also solicited while they were at work.

Shortly after the second conference on September 21 each employee received an inter-office envelope containing two documents. One was entitled "A Plan of Employee Represen-



tation Which Has Been Pronounced Successful in a Large Number of Plant," and contained details of a typical company union set-up, with provision for committees containing an equal number of employee and management representatives and for arbitration of grievances if adjustment proved impossible.<sup>4</sup> No dues were involved. The other document was a statement of the respondent's labor policies, containing various assurances of the respondent's willingness to treat its employees well.<sup>5</sup> Included in it were the following illuminating passages:

To-day, there is no question of its (respondent's) ability to provide employment and opportunity unless its progress is broken by internal troubles.

The management will not sign the closed shop agreement nor any agreement which has for its objective the virtual control of the relations of the company and its various employees.

In the best interests of everyone concerned, management reserves its right to reward individual merit and efficient work, and to protect and preserve the rights of its individual workers. Likewise, management reserves the right to discontinue the services of any whose work, abilities or general conduct is not in keeping with the best interests of the business and its employees as a whole.

In view of Anselm's preceding clarification of the respondent's attitude toward "outside" unions, and together with the drive to set up a company union, the meaning of the documents was obvious. The carefully guarded statements in the announcement of the respondent's policy were clear enough so that employees could readily comprehend the policy of the respondent toward the Union. The accompanying company union plan served to drive the message home to any who failed to "catch on" from a reading of the statement of policy.

This attempt to set up a company union proved abortive. Despite the presence of a large number of signatures on the petition, enthusiasm for a company union appeared to be centered principally in the respondent, and the campaign was dropped. Anselm testified that Aitchison, the president, told him to allow the matter to rest with the employees. This was after the signatures had been obtained.

The attack shifted to other fronts. On November 11, 1936, Kondrath, the president of the Union, was called into An-

<sup>4</sup> Board Exh. No. 15.

<sup>5</sup> Board Exh. No. 14.

selm's office, which is set apart from the rest of the plant. Kondrath had been working in the tool room. Anselm told him that he had a new job for him. A room near Anselm's office had been fitted up with a lathe and a drill press, and Kondrath was to work there. Kondrath testified that Anselm told him "you are to work over here from eight o'clock until four o'clock, and during the noon hour you can go and eat your dinner any place you want to, except visiting inside of the plant." Upon obtaining Kondrath's promise to stay away from the other workers, Anselm took him to his new quarters and told him that if there was no work to be done at a given time, he was to sit down. Magazines were brought to him to enable him to while away the time. One Schultz, Anselm's secretary, served as a flunkie to go to the shops and get Kondrath tools when needed. Kondrath was paid for the lunch period. It is not clear from the evidence what Kondrath's duties were in his isolated location; the respondent's answer alleges that the purpose of the transfer was to have Kondrath "assist in the development and improvement of machines and machine parts." On the evidence, however, it is abundantly clear that the real purpose was to keep him away from the other workers. This ingenious isolation of the employees from the presence of the Union president was abandoned in January, when Kondrath was returned to his old post in the tool room.

One further matter deserves scrutiny before we discuss the events of February 17, 1937. On August 17, 1936, the respondent applied for membership in the National Metal Trades Association, herein called the N. M. T. A. Its application was accepted in the latter part of March 1937. The N. M. T. A. is an association of employers dedicated to the principle of the open shop, and in its Declaration of Principles, which was introduced into evidence, it proclaims that its members will not "deal with striking employees as a body." Aitchison testified that he was ignorant of N. M. T. A. principles relating to labor organizations, except that he agreed with its views on the closed-shop. He testified that the respondent joined the N. M. T. A. for the sole purpose of furthering business efficiency by means of its facilities for exchange of views between its members on common problems of manufacturing technique.

One phase of the N. M. T. A.'s activities was not unknown to the respondent, and that was its function of supplying espionage agents. The respondent employed one Alfred John-

stone through the N. M. T. A. the day after applying for membership therein. The complaint alleges that he was hired as a labor spy and used as such; the respondent's answer denies this and alleges that he was hired "for the purpose of working in the respondent's plant and observing and reporting upon all matters coming to his attention respecting plant production, efficiency of plant supervision, efficiency of tool and machine equipment, the morale of employees, shop working conditions, and all other factors reflected in the prevailing rate of production." The testimony relating to this phase of the case warrants particularly close attention, for it is common knowledge that the use of the labor spy is a device peculiarly calculated to lead to strife. The Supreme Court of the United States, in the case of *National Labor Relations Board v. Fruehauf Trailer Company*, 301 U. S. 49, (1937), recognized the propriety of condemning such activity as an unfair labor practice, and upheld an order of the Board requiring the employer in that case to cease and desist from, among other things, employing persons for the purpose of espionage within the union there involved.

Aitchison testified that Johnstone was represented to be an expert in plant production problems, in efficient plant supervision, and in tool and machine work, and that he was hired as such. He admitted that Johnstone was instructed to make confidential reports to him, and that Johnstone's true function was not disclosed to his fellow employees. Aitchison alleged, however, that the object of this secret arrangement was not in any way to spy upon the union activities of the men, but rather was to get the ideas of an experienced and capable machinist on possible improvements in efficiency of the plant, including changes in personnel and equipment. Johnstone's reports were delivered weekly to Aitchison at the latter's home, and were burned as soon as read. Aitchison said that they dealt primarily with suggested transfers of supervisory personnel and with sundry minor improvements in working conditions. He admitted that four of the reports contained information on the activities of the Union, but said that only the names of the officers and speakers at Union meetings were revealed, and that he knew the names of the officers anyway. As a matter of fact, Johnstone's reports were made to the N. M. T. A., and then transmitted to Aitchison, during the month of October. Thereafter, due to the fact that the N. M. T. A. was subpoenaed to appear before the Senate Subcommittee investigating violations of civil liber-

ties, the reports were made directly to Aitchison. This appears from the testimony of one Abbott, an official of the N. M. T. A. We may reasonably wonder why the N. M. T. A. took pains to avoid having Johnstone's reports get into the hands of a committee investigating violations of civil liberties, if the reports were as innocuous as Aitchison would have us believe. Johnstone was discharged about December 1, 1936, allegedly because of certain domestic difficulties.

Aitchison was immediately followed on the witness stand by Abbott, office manager of the N. M. T. A. in Chicago. Abbott's testimony conflicted directly with Aitchison's on one point. Aitchison had testified that Johnstone was paid, in addition to the regular wages for machinist work, enough to make his total compensation \$200 per month, and that all this was paid directly by the respondent to Johnstone, and not through the N. M. T. A. Abbott testified that the N. M. T. A. billed the respondent for \$225 monthly, less the amount Johnstone earned as regular wages, and that the N. M. T. A. then paid Johnstone the difference between his wages and \$200 a month. The N. M. T. A. kept \$25 a month. The respondent offered thereafter no explanation of this discrepancy.

3117 It is interesting to note that employees who worked at machines in Johnstone's vicinity in the plant testified that he was a poor workman. In fact, even his foreman testified that Johnstone was "very poor," that he "could not do the work," and that he "was not mechanic enough." However, Johnstone did show aptitude at one function. He lost no time in joining the Union, attending meetings, inquiring as to the numerical strength of the Union, and suggesting to his fellow members that they strike. Kondrath testified that Johnstone was eager to attend all Union functions, that "he wouldn't miss a meeting on a bet." Here we find the plausible explanation of his presence. The familiar pattern of the labor spy emerges. His previous experience adds to the picture in this respect. According to Abbott's testimony, Johnstone had been haunting the N. M. T. A. offices in Chicago for about a year and a half previous to August 1936, seeking employment. The assignment to the respondent's plant was his first job for the N. M. T. A. His only known experience, aside from his claim to be a machinist and tool maker, was prior employment at Corporations Auxiliary Company and at the Sherman Service, both organizations having a history of labor espionage activities.

Upon all the evidence, we can reach only one conclusion.

We cannot believe that Aitchison was so poor at selecting personnel that he unwittingly employed Johnstone as an expert in the various lines indicated in the respondent's answer to the complaint. We conclude that he was hired as a labor spy and that one of his principal functions, to say the least, was to engage in espionage within the Union.

*C. Conclusions as to unfair labor practices prior to February 17, 1937.*

From the various events set forth above it appears that the respondent engaged in a consistent program, developed along varied lines, of both open and underhanded attack upon the efforts of its employees to exercise their right to self-organization. We find that by the anti-union statements and actions of Anselm on September 10 and September 21, by the campaign to introduce into the plant a company union, by the isolation of the Union president from contact with his fellow employees, and by the employment and use of Alfred Johnstone as a labor spy, the respondent has interfered with, restrained, and coerced its employees in the exercise of their right to self-organization guaranteed in Section 7 of the Act.

*D. The refusal to bargain collectively on February 17, 1937.*

The complaint alleges that the respondent engaged in unfair labor practices within the meaning of Section 8 (5) of the Act in refusing to bargain collectively with the Union on September 10 and September 21, 1936, on February 17, 1937, and at all times thereafter.

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1. The appropriate unit.

The complaint alleged that the production and maintenance workers, exclusive of supervisory, clerical, and laboratory employees, constitute an appropriate bargaining unit. The Union admits to membership all hourly paid employees of the respondent, excluding laboratory and engineering employees, supervisory employees and clerical employees. The respondent claimed that employees in the maintenance department, consisting of electricians, carpenters, and steam fitters, should not be included in the bargaining unit with the remainder of the hourly paid employees. However, we find no rea-



son for this proposed exclusion under the circumstances. Most of these employees were members of the Union, and some were extremely active members. No craft organization at any time purported to represent them in dealing with the respondent. We will include them in the unit.

We find that the hourly paid employees of the respondent, excluding laboratory and engineering employees, supervisory employees, and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, and that such unit insures to the employees of the respondent the full benefit of their rights to self-organization and to collective bargaining and otherwise effectuates the policies of the Act.

2. Representation by the Union of the majority in the appropriate unit.

A count of the respondent's time cards made at the hearing, with deductions for those not properly belonging in the unit, revealed that on September 10 and September 21 there were at least 185 or 186 employees in the appropriate unit. Witnesses for the Union did not claim, and the evidence does not reveal that it had more than 91 members on either of those dates. While this lack of a majority precludes a finding of unfair labor practices under Section 8 (5) of the Act on those dates, it does not, of course, preclude findings of interference and coercion by the respondent on those occasions directed against "outside" unionization.

On February 17, 1937, the result is different. It was stipulated that there were on that date 229 employees in the unit we have found to be appropriate. This figure was based on the respondent's records. On behalf of the Union, there were introduced into evidence membership cards which were made available to the respondent's counsel for examination. The respondent checked the cards against its pay roll. The cards were withdrawn later in the hearing and lists of the signatories were admitted into evidence in substitution therefor.

After deducting from the list several employees shown 3.19 to have left the respondent's employ prior to February 17, 1937, it appears that on February 17, 155 employees in the appropriate unit had, by signing membership cards, designated and selected the Union as their representative for purposes of collective bargaining. No evidence was introduced to show that any of these individuals had withdrawn from the Union on or before that date.

We accordingly find that on February 17, 1937, the Union had been designated as their bargaining representative by a clear majority of the respondent's employees in the unit above described as appropriate. Pursuant to Section 9 (a) of the Act, the Union was, therefore, the exclusive representative of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, and other conditions of employment.

### 3. The refusal to bargain.

On the morning of February 17, a duly authorized bargaining committee from the Union once more met Anselm in his office. The committee informed him that as representatives of the employees in the plant, they desired recognition of the Union and collective bargaining. Anselm reaffirmed the respondent's policy of non-recognition of "outside" unions. At the request of the committee, he conferred with Aitchison and reported back, saying "Nothing doing. It stands as it is, everything." He suggested, however, that the committee return at 2 p. m. the same day. The committee returned at the appointed hour, and Anselm told them: "It is still the same. We can't recognize an outside union. If you fellows want to call it as a shop committee, why, we will give you collective bargaining, but under the leadership of outsiders, and the Amalgamated Association of Iron, Steel and Tin Workers, we will not." The committee withdrew after further discussion proved futile.

The respondent did not controvert the testimony relating to this refusal to bargain. It is significant that Anselm, far from attempting to question the committee as to whether they represented a majority of the employees, indicated a complete willingness to bargain with them if they would renounce their chosen union and assume the status of a shop committee. Coming after the series of blows at the Union described above, this refusal to bargain constituted an unequivocal and final defiance of the Act, and indicated clearly to the employees that the respondent had no intention of complying with the law.

We find that on February 17, 1937, the respondent refused to bargain collectively with the Union as the representative of its employees in respect to rates of pay, wages, hours of employment, and other conditions of employment. We  
3120 also find that by such refusal the respondent interfered with, restrained, and coerced its employees in the exer-



cise of their right to self-organization and to collective bargaining through representatives of their own choosing, as guaranteed in Section 7 of the Act.

*E. The strike.*

Retiring from Anselm's office after the collapse of the attempt to bargain on February 17, the Union committee immediately reconvened in one of the plant buildings. It had been voted full authority by the Union to take such action as seemed appropriate if the respondent could not be induced to recognize the Union and engage in collective bargaining. It was testified that the members of the Union were becoming restive and demanding that the committee take vigorous action. The committee decided to take over and hold two of the respondent's "key" buildings. These buildings were thereupon occupied by about 95 employees. Work stopped, the foremen and women employees left at the request of the Union leaders, and those employees who did not desire to participate were permitted to leave. There was no violence. The remainder of the plant also ceased operations. This happened at about 2:30 in the afternoon. A number of the members of the Union who worked on the night shift and did not arrive for work until about 3 o'clock did not join their fellow members inside the buildings.

At about 6 o'clock that same evening, Anselm, accompanied by two police officials and Max Swiren, counsel for the respondent, went to each of the buildings and demanded that the men leave. They refused, and Swiren thereupon announced in loud tones that all the men in the plant were discharged for the seizure and retention of the buildings.

The men occupied the buildings until February 26, 1937. Their fellow members brought them food, blankets, stoves, cigarettes, and other supplies, the materials being passed into the plant, through windows after deputies stationed at the plant had inspected the bundles. The men in the plant kept the machines oiled as best they could. The only injuries to the plant and the equipment occurred on the occasions of two attempts to oust the employees. The respondent had, the day after the occupation began, secured an injunctive order against the men from the Circuit Court of Lake County, Illinois. This was read and posted at the plant. The men refused to leave the buildings, and a writ of attachment was obtained and served upon the men by the sheriff on February

19, 1937. Upon the men's refusal to submit to arrest, the sheriff and his deputies attacked the buildings with tear gas bombs, a battering ram, and baseball bats. The employees threw back nuts, bolts, spools, and other articles. Many windows were broken, some by the tear gas bombs thrown 3121 by deputies, some by the men in the plant in an attempt to secure fresh air and to combat the gas fumes. Some of the missiles thrown by the men were intended for the purpose of breaking the windows; others were undeniably aimed at the attacking deputies. While the equipment was damaged by this barrage, as well as by the deputies' bombs, there is no evidence that any malicious sabotage of the equipment took place.

The attack on the 19th was unsuccessful. Efforts at mediation on the part of the United States Department of Labor and the Governor of Illinois proved unavailing. On February 26 the sheriff and an increased force of deputies conducted another drive on the buildings. After a pitched battle similar to the one on the 19th, the men were ousted and placed under arrest. Most of them were eventually fined and given substantial jail sentences by the Circuit Court of Lake County for violating the injunction.

#### *F. The resumption of operations.*

As soon as the strikers were ejected from the buildings, the respondent began preparing to resume operations. The buildings were cleaned up, broken windows were replaced, some rusted machines were rehabilitated, and production gradually began. Aitchison gave Anselm *carte blanche* to restaff the plant with new employees in addition to such of the old employees as he desired to retain. Anselm told his various foremen to seek out those of the employees they wanted back, and to have both old employees and new applicants report to Anselm for interviews. Foremen approached a large number of old employees with individual offers of reemployment, including many Union members who had participated in the occupation of the buildings or helped to furnish supplies to those inside. Back pay for the period of the shut-down was offered and given to most if not all of those returning to work. A large number of new workers were hired.

Meanwhile the Union was not inactive. On March 3 a duly authorized Union committee presented to the respondent a

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written request<sup>6</sup> for a meeting to consider recognition of the Union and collective bargaining. On the same day, Aitchison sent to the Union committee a written reply,<sup>7</sup> refusing to meet for the purposes specified. A number of reasons were given, including allegations that the Union was not a proper bargaining agency since the respondent was not in the iron, steel, or tin business, that many of the members of the Union had become such through duress, and that those who had participated in the sit-down strike were ex-employees. On March 5 the Union committee returned and presented another written request,<sup>8</sup> pointing out that the Union was "desirous of bringing about peace and a settlement of the strike now in progress," requesting recognition of the Union, and asking "that a conference be held between the company and the Union for the purpose of adjudicating the dispute." Aitchison replied in writing<sup>9</sup> once more on March 8, again refusing the Union's request for a meeting.

The respondent continued its individual offers of reinstatement to such of the employees as it wanted to take back. Some of the strikers capitulated and returned to work, receiving back pay for the period during which the plant had been closed. They did not resign from the Union, although a few testified that they considered that by going back to work they were abandoning it. Others refused to return without Union recognition and mass reinstatement of the strikers. A skeleton crew of about 30 or 40 began operations in some sections of the plant on March 1. By March 12 the restaffing of the plant was substantially complete and operations were approximately normal. The strikers were still out at the time of the hearing, when the plant was operating with a larger force than at the time the strike began.

### *G. Conclusions as to the respondent's campaign to break the strike.*

The complaint alleged that by the announcement of discharge on February 17, and by the failure to reinstate the strikers upon the reopening of the plant, the respondent discriminated in regard to the hire and tenure of employment of the strikers, thereby discouraging membership in the Union

<sup>6</sup> Board Exhibit No. 25A.

<sup>7</sup> Board Exhibit No. 26.

<sup>8</sup> Board Exhibit No. 26A.

<sup>9</sup> Board Exhibit No. 28.

and engaging in unfair labor practices within the meaning of Section 8 (3) of the Act. In his Intermediate Report the Trial Examiner found that by failing to reinstate the strikers the respondent had, with a few exceptions, so discriminated against them.

We do not construe Swiren's announcement, coming as it did after the strike had begun, as a discriminatory discharge of the men in the plant. We are convinced by the record before us that this announcement was not so regarded by the strikers. The evidence does not show that they were deterred from applying for their jobs by reason of these assertions of Swiren. On the contrary, it was well known throughout the strikers' ranks that the respondent was taking back many of those who had occupied the plant. As a matter of fact the respondent did reinstate 35 of the sit-down strikers, or over one-third of the total. Emissaries of the respondent were actively seeking out individual strikers and imploring them to return to work. At the same time, the evidence clearly shows

that the position of practically all of those strikers who 3123 did not go back, and who are named in the complaint, was that they were determined to stay out until the Union reached a settlement with the respondent. And we are unable to reach the conclusion that the Union committee, on March 3 or March 5, made a collective request for reinstatement of all the strikers. Rather, the committee on those dates requested collective bargaining and negotiations looking toward the settlement of the strike. The strikers were still holding out for the objectives for which they had originally struck.

It might be argued that since the Union was demanding as a condition to reinstatement only something to which they were entitled under the Act—recognition and collective bargaining—the respondent in illegally refusing this demand should be considered as discriminatorily refusing to reinstate the strikers. We do not take this view. So long as the employees were unwilling to return to work under the conditions existing at the time the strike was called,<sup>10</sup> however just the grounds on which their position was based, it cannot be said that the respondent was refusing to reinstate them.

While the record gives rise to a reasonable speculation that

<sup>10</sup>cf. *Matter of American Manufacturing Company; Company Union of The American Manufacturing Company; The Collective Bargaining Committee of The Brooklyn Plant of The American Manufacturing Company and Textile Workers Organizing Committee, C. I. O., 5 N. L. R. B., No. 67.*

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the respondent would have refused to take back the strikers in a body, such a speculation, in the absence of a clear-cut request for reinstatement, cannot support a finding that the respondent refused to restore them to their jobs. We will dismiss the complaint in so far as it alleges that the respondent committed unfair labor practices within the meaning of Section 8 (3) of the Act by discharging and refusing to reinstate the strikers.

What we have said above does not in any sense involve approval of the conduct of the respondent in connection with its strikebreaking campaign. By refusing to negotiate with the Union committee during the strike, it repeated its unlawful refusal to bargain collectively, and underscored its policy of hostility to the Union. The respondent cannot be heard to assert that the Union on March 3 and 5 no longer was the representative of the majority of the employees. The evidence does not show that any of the Union members had resigned by that time, and any defections from the Union's representative authority implied in the return to work of some of the members is clearly ascribable to the unlawful conduct of the respondent in continuing to rebuff all efforts of the Union to meet and settle the strike through negotiation. Any such defections may accordingly be disregarded.<sup>11</sup> By the Union leaders and appealing to individual strikers to return to work, the respondent engaged in unfair labor practices within the meaning of Section 8 (1) and (5) of the Act.

We may note in this connection that the respondent contends that it was under no duty to deal with the strikers due to the unlawful character of the sit-down strike. Under all the circumstances, we find no merit in this contention. We will discuss it more fully under the Section headed "The Remedy," in considering the question of whether the strikers' conduct was sufficiently indefensible to warrant us in not ordering them reinstated.

#### H. *Domination and interference with the Rare Metal Workers of America, Local #1.*

We have noted above that the respondent had resumed almost complete operations by about March 12. Early in April

<sup>11</sup> *Matter of Bradford Dyeing Association (U. S. A.) (a Corporation) and Textile Workers' Organizing Committee of the C. I. O., 4 N. L. R. B., No. 79.* foregoing actions, as well as by going over the heads of the



a small group of employees went to Anselm's office and informed him that they contemplated the formation of an inside union in the plant. He told them that "under the labor act" they were entitled to organize. This temporary committee included Henry Berquist, who had been employed before the strike but who had not joined the Union, and Ted Sylvin and A. R. Johnson, both new men who were taken on after the sit-down. Sylvin was informally designated by the group as temporary leader of the movement.

A meeting was planned for April 15, at which a vote was to be taken on whether the employees desired an "independent" union in the plant. The respondent granted the use of one of its buildings for the meeting and readily permitted the use of its bulletin boards for announcements relating thereto. It may be noted in this connection that in August 1936, when the Union requested permission to use the respondent's bulletin boards for notices of meetings, the request was denied. But, for the meeting to consider an "independent" union, the respondent even supplied the typed announcements and mimeographed about 300 ballots, free of charge.

The meeting was held as scheduled, about 200 employees attended, and the balloting resulted in a vote of about 185 to 15 in favor of the formation of an "independent" organization. The ballots were placed in a box which was sealed and put in one of the respondent's vaults.

The temporary committee decided to incorporate the new organization. Application for a certificate of incorporation from the State of Illinois was made on April 17 and the certificate<sup>12</sup> was granted on the 19th. The name chosen for the organization was "Rare Metal Workers of America, Local #1." A petition was circulated among the employees, the signatories becoming charter members. Over 220 signatures were obtained within two or three days.

Another meeting was held, also in one of the respondent's buildings. Typed notices and use of the bulletin boards were again supplied by the respondent. Officers were nominated at this meeting, and an election scheduled. The slate of nominees and notices of the elections were posted on the respondent's bulletin boards. Ballots were mimeographed by the respondent. The election was held in the plant, ballot boxes being placed under the time clocks in two of the buildings. After the balloting was completed, the bal-

<sup>12</sup> Board Exhibit No. 31.

lots were placed in the respondent's safe. The new officers were installed, and some dues collected.

At the time of the hearing, the R. M. W. A. had had two meetings outside the respondent's property. By-laws<sup>13</sup> had been adopted, the provisions of which are most illuminating. Section 21 provides that "any member of this organization may bargain as an individual with the employer as to rates of pay and wages or working conditions or any other matter pertaining to his or her employment," and further provides for submission of any grievances on these matters to the Executive Board of the organization, whose action shall be final. The organization is, by the same article, forbidden to affiliate except upon a 75 per cent vote of its membership, and a like percentage of assent is required before a strike may be called.

On May 26 or 27 a committee from the R. M. W. A. met with Anselm, seeking recognition. Swiren, the respondent's counsel, was furnished the membership cards of the organization, and had photostatic copies made. He reported to Anselm at that meeting that "undoubtedly they had a majority, and under the law they deserved recognition, and we would recognize them." Recognition was granted. At the time of the hearing, which began shortly thereafter, the new organization had not engaged in any further negotiations with the respondent.

In considering the question of the legitimacy of the R. M. W. A., we must direct our attention first to the company union campaign conducted by the respondent before the strike. We have already described the scope of that campaign. Through the statements made by Anselm to the Union committee, through the copies of a model company union plan sent to each employee in an inter-office envelope, and through the circulation of a petition with which to obtain support for an "employee representation plan," the respondent's desire for an inside union in the plant was emphatically brought home to the employees. Despite this diligent attempt to undermine the Union, the company union drive collapsed.

After the reopening of the plant, with the bulk of the Union membership still out on strike, the respondent's prior efforts finally bore fruit. There appeared an inside organization obviously of a pattern calculated to meet with the respondent's full approval. The respondent, not resting

<sup>13</sup> Board Exhibit No. 42.



on its previous announcements and actions in favor of an inside organization, made certain that its warm feeling toward this new movement was made evident. Favors were readily granted to the R. M. W. A., in significant contrast to the hostility with which it had previously responded to the appearance of the Union. The Union's committee had met with unyielding resistance on the part of Anselm, who had abruptly ordered from his office the "outside" representative selected by the Union to serve on its committee; the R. M. W. A. was welcomed and readily granted recognition. The Union had been denied the use of the respondent's bulletin boards for announcements of meetings; this favor was at once bestowed upon the R. M. W. A. An attempt had been made to poison the Union ranks by the injection therein of a labor spy; far from using espionage against the R. M. W. A., the respondent granted it the use of a company building and furnished it free typing and mimeographing services. The prior drive to induce the employees to abandon the Union in favor of an employee representation plan quite naturally had no counterpart when the R. M. W. A., an organization modelled to comply with the respondent's desires, appeared on the scene. In general, the contrast between the respondent's well-publicized animosity toward the Union and its open affection for the R. M. W. A. was so clear and striking that it must necessarily have prevented freedom of choice by the employees.

Upon all the evidence, we find it impossible to conclude that the R. M. W. A. has been freely selected by the employees, unfettered by company interference. We must conclude that the R. M. W. A. is the result of the respondent's anti-union campaign, and that it has received support from the respondent.

We find that the respondent has dominated and interfered with the formation and administration of the R. M. W. A., and has contributed support to it, and has thereby engaged in unfair labor practices within the meaning of Section 8 (2) of the Act.

#### IV. THE EFFECT OF THE UNFAIR LABOR PRACTICES UPON COMMERCE.

We find that the activities of the respondent set forth in Section III above, occurring in connection with the operations of the respondent described in Section I above, have a

close, intimate, and substantial relation to trade, traffic, and commerce among the several States, and have led and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

#### THE REMEDY.

3127 Having found that the respondent engaged in various unfair labor practices we must, in order to effectuate the policies of the Act, restore as fully as possible the situation that existed prior to the respondent's unlawful conduct.

One obvious requisite is that the strikers be restored to their jobs upon application by them, unless the surrounding circumstances are such that we should not exercise our power, equitable in nature, to order such restoration. It is contended that the conduct of the strikers in engaging in the sit-down strike and in refusing to vacate the buildings in response to the injunction, relieves the respondent of any obligation toward the participants, including those who brought supplies to the men in the plant. In making this contention, however, the respondent does not come before the Board with clean hands. On the contrary, as we have found above, the respondent is guilty of gross violations of law, violations which in fact were the moving cause for the conduct of the employees.

There can be no doubt that the direct and immediate cause of the strike was the illegal activity of the respondent. Nor can there be any question as to the gravity of the respondent's unlawful course of action. While the Act imposes no criminal penalties for unfair labor practices, it expresses an important national policy. If judicial authority be needed for condemning the refusal to bargain, the highest is available. In the case of *National Labor Relations Board v. Jones & Laughlin Steel Corporation*, 301 U. S. 1, 42 (1937), the Supreme Court of the United States, speaking through Chief Justice Hughes, stated:

Refusal to confer and negotiate has been one of the most prolific causes of strife. This is such an outstanding fact in the history of labor disturbances that it is a proper subject of judicial notice and requires no citation of instances.

Even assuming that the striker's conduct was violative of certain State laws carrying criminal penalties, we cannot say

that the respondent is therefore guilty in any lesser degree. One who engages in persistent and open defiance of a national law cannot be heard to assert that the retaliatory conduct of his employees in seeking to secure their rights is necessarily a bar to their reinstatement. We have, in some cases, declined to order reinstatement of striking employees despite the fact that the strike was caused by the employer's unfair labor practices. In one such case, the striker in question had been indicted for shooting and wounding a fellow employee during the course of the strike.<sup>14</sup> In another, six strikers had pleaded guilty to a felony involving conspiracy to destroy property, and two had pleaded guilty to the felony of 3128 stealing dynamite and converting it to their own use;

all eight had been sentenced to a maximum of ten years in jail.<sup>15</sup> It cannot be said that the conduct of the strikers in the present case is analogous to the conduct in these instances. They were not engaged in sabotage. Under the circumstances, we do not feel that the respondent's contention should prevail. Furthermore, in view of the fact that the respondent did take back a large number of the sit-down strikers, we find it difficult to believe that the respondent's objection on that score is put forward in good faith.

The outstanding fact revealed by this record is that, had it not been for the respondent's illegal conduct, the orderly processes of collective bargaining, which the Act is designed to encourage, would have taken place. After giving the fullest consideration to the question, our conclusion is that the strikers should be reinstated upon application, and we will so order.

In this connection we may note the respondent's further contention that certain of the strikers were not called back because of inefficiency, and others because the departments in which they worked had been reorganized upon the resumption of operations and their jobs thereby abolished. We need not concern ourselves with these allegations, in view of the fact that we are not finding that such workers were discriminatorily discharged or denied reinstatement. In fulfilling its duty to restore the status quo, the respondent will be ordered to reinstate upon application all the strikers; after this has been done, it may reorganize or reduce its staff

<sup>14</sup> *Matter of Kentucky Firebrick Company and United Brick and Clay Workers of America, Local Union No. 510*, 3 N. L. R. B., No. 46.

<sup>15</sup> *Matter of Standard Lime & Stone Company and Branch No. 175, Quarry Workers International Union of North America*, 5 N. L. R. B., No. 15.

in any non-discriminatory fashion it deems necessary, subject to any modification introduced by agreement with the Union. In reinstating the strikers upon application, the respondent must dismiss, if necessary, employees hired for the first time during the strike. This is in accordance with our usual practice in cases where strikes are caused by unfair labor practices.

We shall also order the respondent to bargain collectively with the Union upon request. It is true that at the hearing it was testified that a majority of the workers in the plant had become members of the R. M. W. A., and that there was some evidence that certain of the employees had tacitly abandoned their Union membership by deserting the strikers' ranks and returning to work. However, we have found that the R. M. W. A. is not the free choice of the employees, that it is company-dominated, and that the strike-breaking campaign of the respondent, through which a number of strikers were induced to return to work individually, was in violation of law. We have also found that by February 17, 1937, the Union was the representative of a clear majority of the employees in the appropriate unit. To refrain from ordering the respondent to bargain collectively with the Union under these circumstances would be to permit the respondent to profit by its own wrongdoing. Such a frustration of the purposes of the Act cannot be tolerated, as we have said in previous cases involving analogous circumstances.<sup>16</sup> When an employer illegally denies to the representatives of his employees the right of collective bargaining, effectuating the purposes of the Act requires that he be commanded to deal with them upon request. We shall, of course, order the respondent to withdraw all recognition from the R. M. W. A. as the bargaining agency for its employees.

The Trial Examiner recommended that back pay starting on March 12, 1937, be awarded the workers against whom he found the respondent had unlawfully discriminated. Since we have not found this discrimination to be shown by the evidence before us, we shall not follow this recommendation. However, the strikers will be entitled to back pay beginning with any refusal on the part of the respondent to reinstate them upon application in accordance with our order.

<sup>16</sup> *Matter of Atlas Mills, Inc. and Textile House Workers Union No. 2269, United Textile Workers of America*, 3 N. L. R. B., No. 3; *Matter of Bradford Dyeing Association (U. S. A.) (a Corporation) and Textile Workers' Organizing Committee of the C. I. O.*, 4 N. L. R. B., No. 79.

Upon the basis of the foregoing findings of fact, and upon the entire record in the case, the Board makes the following:

CONCLUSIONS OF LAW.

1. Amalgamated Association of Iron, Steel, and Tin Workers of North America, Lodge 66, and Rare Metal Workers of America, Local #1, are labor organizations, within the meaning of Section 2 (5) of the Act.

2. The respondent, by dominating and interfering with the formation and administration of, and contributing support to, the R. M. W. A., has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (2) of the Act.

3. The hourly paid employees of the respondent, excluding laboratory and engineering employees, supervisory employees, and clerical employees, constitute a unit appropriate for the purposes of collective bargaining, within the meaning of Section 9 (b) of the Act.

4. The Union was on February 17 and March 3 and 5, 1937, the exclusive representative of all employees in such unit for the purposes of collective bargaining, within the meaning of Section 9 (a) of the Act.

5. By refusing and continuing to refuse to bargain collectively with the Union as the exclusive representative of the employees in the above stated unit, on February 17 and March 3 and 5, 1937, the respondent has engaged in 3130 unfair labor practices, within the meaning of Section 8 (5) of the Act.

6. The respondent, by interfering with, restraining, and coercing its employees in the exercise of the rights guaranteed in Section 7 of the Act, has engaged in and is engaging in unfair labor practices, within the meaning of Section 8 (1) of the Act.

7. The aforesaid unfair labor practices are unfair labor practices affecting commerce, within the meaning of Section 2 (6) and (7) of the Act.

8. The respondent has not engaged in unfair labor practices within the meaning of Section 8 (3) of the Act.



## ORDER.

Upon the basis of the above findings of fact and conclusions of law, and pursuant to Section 10 (c) of the National Labor Relations Act, the National Labor Relations Board hereby orders that the respondent, Fansteel Metallurgical Corporation, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) In any manner interfering with, restraining, or coercing its employees in the exercise of their rights to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, or to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, as guaranteed in Section 7 of the Act;

(b) Dominating or interfering with the formation or administration of Rare Metal Workers of America, Local #1, or any other labor organization of its employees, or contributing support to any such labor organizations;

(c) Refusing to bargain collectively with Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, as the exclusive representative of its hourly paid employees, excluding laboratory and engineering employees, supervisory employees, and clerical employees.

2. Take the following affirmative action which the Board finds will effectuate the policies of the Act:

(a) Upon request bargain collectively with Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, as the exclusive representative of its hourly paid employees, excluding laboratory and engineering employees, supervisory employees, and clerical employees;

(b) Upon application, offer to those employees who went on strike on February 17, 1937, and thereafter, immediate and full reinstatement to their former positions, without prejudice to their seniority or other rights or privileges, 3131 dismissing, if necessary, all persons hired since February 17, 1937;

(c) Make whole all employees who went on strike on February 17, 1937, and thereafter, for any losses they may suffer by reason of any refusal of their application for reinstatement in accordance with the preceding paragraph, by payment to each of them of a sum of money equal to that which each of them would normally have earned as wages during

*Order.*

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the period from the date of any such refusal of their application to the date of the offer of reinstatement, less the amount, if any, which each, respectively, earned during said period;

(d) Withdraw all recognition from Rare Metal Workers of America, Local #1, as a representative of its employees for the purpose of dealing with the respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and completely disestablish Rare Metal Workers of America, Local #1, as such representative;

(e) Post immediately in conspicuous places in its plant at North Chicago, Illinois, and maintain for a period of at least thirty (30) consecutive days, notices to its employees stating that the respondent will cease and desist in the manner aforesaid, and that recognition is withdrawn from the R. M. W. A. as ordered above;

(f) Notify the Regional Director for the Thirteenth Region in writing within ten (10) days from the date of this Order what steps the respondent has taken to comply herewith.

And it is further ordered that the complaint be, and it hereby is, dismissed in so far as it alleges that the respondent has engaged in unfair labor practices within the meaning of Section 8 (3) of the Act.



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*Affidavit of Service.*

3107

NATIONAL LABOR RELATIONS BOARD.

Docketed Mar. 14, 1938.

• • (Caption—C-235) • •

AFFIDAVIT AS TO SERVICE.

District of )  
Columbia, ) ss.

I, Bertram Katz, being first duly sworn, on oath saith that I am one of the employees of the National Labor Relations Board, in the office of said Board in Washington, D. C.; that on the 14th day of March, 1938, I mailed postpaid, bearing Government frank, by registered mail, a copy of the Decision and Order to the following named persons, addressed to them at the following addresses:

Mr. Lester Collins  
218 Washington Street  
Waukegan, Ill.

Mr. Max Swiren  
Suite 2525  
One North LaSalle Street  
Chicago, Ill.

Bertram Katz.

Subscribed and sworn to before me this 14th day of March, 1938.

(Seal)

Harold G. Wilson,  
*Notary Public, District of Columbia.*

My commission expires May 15, 1941.

*Return Receipt.*

1973

3132

**Return Receipt**

(Stamp) Washington, D. C. Mar 17 7:30 PM 1938.

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Lester F. Collins

(Signature or name of addressee)

Olga Maslawski

(Signature of addressee's agent)

Date of delivery....., 19.....

Form 3811

Penalty for Private Use to Avoid Payment of Postage \$300

(Stamp) Waukegan Mar 15 6 P M 1938 Ill.

Post Office Department

(Postmark of Delivering)

Official Business

( Office )

( )

Registered Article

( )

No. 69498

( )

Insured Parcel

( )

No. ....

( )

Return to National Labor Relations Board

(Name of Sender)

Street and Number, or Post Office Box.....

Washington,

D. C.

1974

Return Receipt.

3133

Return Receipt

(Stamp) Received Mar 16 1938 National Labor Relations Board.

Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.

Max Swiren

(Signature or name of addressee)

F. C. McCrum

(Signature of addressee's agent)

Date of delivery Mar. 15, 1938.

Form 3811

Penalty for Private Use to Avoid Payment of Postage \$300

(Stamp) Old P.O. Annex Mar 15 2 PM 1938 Chicago, Ill.

Post Office Department

(Postmark of Delivering Office)

Official Business

Registered Article

No. 69497

Insured Parcel

No. \_\_\_\_\_

Return to National Labor Relations Board  
(Name of Sender)

Street and Number, or Post Office Box  
Washington,

D. C.

3134 IN THE UNITED STATES CIRCUIT COURT OF APPEALS

For the Seventh Circuit.

Fansteel Metallurgical Corporation,	} Case No. 6606.
<i>Petitioner,</i>	
<i>vs.</i>	
National Labor Relations Board,	}
<i>Respondent.</i>	

CERTIFICATE OF THE NATIONAL LABOR  
RELATIONS BOARD.

The National Labor Relations Board, by its Assistant Secretary, duly authorized by Section 1 of Article VI of the Rules and Regulations of the National Labor Relations Board, Series 1, as amended, hereby certifies that the documents annexed hereto constitute a full and accurate transcript of the entire record in a proceeding had before said Board entitled "In the Matter of Fansteel Metallurgical Corporation and Amalgamated Association of Iron, Steel and Tin Workers of North America, Local 66", the same being Case No. C-235, before said Board, such transcript including the pleadings, testimony, and evidence upon which the order of the Board in said proceeding was entered, and including also the findings and order of the Board.

Fully enumerated, said documents attached hereto are as follows:

1. Charge filed by the Amalgamated Association of Iron, Steel and Tin Workers of North America, Local 66, and sworn to September 15, 1936.
2. Amended charge filed by the Amalgamated Association of Iron, Steel and Tin Workers of North America, Lodge 66, on May 21, 1937.
3. Complaint and notice of hearing issued by the National Labor Relations Board on May 25, 1937.
4. Motion of Fansteel Metallurgical Corporation for an extension of time to file its answer, and for an adjournment of hearing date, together with affidavit in support of said motions.
- 3135 5. Copy of order granting extension of time to file answer and denying motion to adjourn date of hearing, dated May 29, 1937.

*Certificate.*

6. Answer of Fansteel Metallurgical Corporation.
7. Application of Fansteel Metallurgical Corporation for subpoenas and subpoena duces tecum, sworn to on the 3rd of June, 1937.
8. Certified copy of order designating Tilford E. Dudley, Trial Examiner, dated June 3, 1937.
9. Certified copy of order denying application for subpoenas and subpoena duces tecum, dated June 10, 1937.
10. Copy of renewal of application for subpoenas and subpoenas duces tecum.
11. Amendment to answer of Fansteel Metallurgical Corporation, sworn to on the 22nd day of June, 1937.
12. Copy of order granting in part and denying in part application for subpoenas and subpoenas duces tecum, dated June 25, 1937.

Documents listed hereinabove under items 1-11, inclusive, are contained in the exhibits and included under the following item:

13. Stenographic transcript of testimony before Tilford E. Dudley, Trial Examiner of the National Labor Relations Board, on June 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 23, 24, and 25, 1937, including all exhibits introduced in evidence.
  14. Copy of intermediate report of Trial Examiner Dudley, dated September 2, 1937.
  15. Copy of application of Fansteel Metallurgical Corporation for extension of time for filing exceptions.
  16. Copy of telegram, dated September 10, 1937, denying request for extension of time for filing exceptions.
  17. Copy of exceptions filed by Fansteel Metallurgical Corporation.
  18. Copy of Union's motion to extend time of filing exceptions.
  19. Copy of objections and exceptions of the Union, received September 20, 1937.
  - 3136 20. Copy of order of National Labor Relations Board, dated October 9, 1937, accepting exceptions of Union.
  21. Copy of decision, findings of fact, conclusions of law, and order of the National Labor Relations Board dated March 14, 1938, together with affidavit of service and United States Post Office return receipts thereof.
- In Testimony Whereof, the Assistant Secretary of the National Labor Relations Board, being thereunto duly authorized as aforesaid, has hereunto set her hand and affixed the

*Certificate.*

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seal of the National Labor Relations Board, in the City of Washington, District of Columbia, this 1st day of April, 1938.

(Seal) Beatrice M. Stern,  
*Assistant Secretary, National Labor  
Relations Board.*

3137 Endorsed: Filed Apr. 4, 1938. Frederick G. Campbell, Clerk.





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UNITED STATES CIRCUIT COURT OF APPEALS FOR  
THE SEVENTH CIRCUIT

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages, numbered from 1297 to 1977, inclusive, contain a true copy of Volume III of the printed record, printed under my supervision and filed on the twelfth day of April 1938, which together with Volume I and II, certified herewith under a separate certificate, constitute the record upon which the following entitled case was heard and determined: *Fansteel Metallurgical Corporation, Petitioner vs. National Labor Relations Board, Respondent*, No. 6606, October Term, 1937, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit. In testimony whereof, I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 27th day of September A. D. 1938.

[SEAL]

FREDERICK G. CAMPBELL,  
*Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.*

At a regular term of the United States Circuit Court of Appeals for the Seventh Circuit, begun and held in the United States Court Room in the City of Chicago, in said Seventh Circuit, on the fifth day of October 1937, of the October Term, in the year of our Lord one thousand nine hundred and thirty-seven, and of our Independence the one hundred and sixty-second.

6606

FANSTEEL METALLURGICAL CORPORATION, PETITIONER

*vs.*

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

Petition for Review of the Decision of the National Labor Relations Board

And, to-wit: On the sixteenth day of May 1938, the following further proceedings were had and entered of record, to-wit:

Monday, May 16, 1938

Court met pursuant to adjournment

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. WALTER E. MANOR, Circuit Judge; Hon. WALTER C. LINDLEY, District Judge.

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6606

FANSTEEL METALLURGICAL CORPORATION

vs.

NATIONAL LABOR RELATIONS BOARD

Petition for Review of Order of the National Labor Relations Board

Now this day come the parties by their counsel, and this case comes on to be heard on the transcript of the record, and the testimony of counsel, and on oral argument by Mr. Max Swiren, counsel for Petitioner, and by Mr. Lawrence Hunt, counsel for Respondent, the Court having heard the same, takes this matter under advisement.

And afterwards, to-wit: On the twenty-second day of July 1938 there was filed in the office of the Clerk of this Court, the Opinion of the Court, which said Opinion is in the words and figures following to-wit:

In the United States Circuit Court of Appeals for the Seventh Circuit

No. 6606. October Term, 1937, April Session, 1938

FANSTEEL METALLURGICAL CORPORATION, PETITIONER

vs.

NATIONAL LABOR RELATIONS BOARD, RESPONDENT

Petition for Review of Order of National Labor Relations Board

June 22, 1938

Before SPARKS and THORNTON, Circuit Judges, and LINDLEY, District Judge.

SPARKS, Circuit Judge. This is a statutory proceeding for a review of an order of the National Labor Relations Board. The order was entered by the Board on March 14, 1938, under the National Labor Relations Act of 1935, 29 U. S. C. A., chapter 7, and the petition was filed pursuant to section 10 (f) of that Act. 29 U. S. C. A., section 160 (f).

The order was the result of the filing on September 15, 1936, of a general charge of unfair labor practices affecting commerce, against petitioner, by local 66 of the Amalgamated Association of Iron, Steel and Tin Workers of America, and the filing, on May 21, 1937, of an amended charge specifically setting forth unfair labor practices in violation of section 7, and subsections 1, 2, 3, and 5 of section 8 of the Act. On May 25, 1937, the Board issued a complaint against petitioner, and gave notice of a hearing to be had on June 7, 1937, at Waukegan, Illinois.

The complaint alleged, in substance, that the petitioner had engaged and was engaging in unfair labor practices affecting commerce within the meaning of section 8, subdivisions (1), (2), (3), and (4) and section 2, subdivisions (6) and (7) of the National Labor Relations Act, in that (a) petitioner hired one Alfred Johnstone, an agent and operative of the National Metal Trades Association, for the purpose of espionage, intimidation, interference, spying, and reporting upon the activities and membership of petitioner's employees in the Union; (b) petitioner employed one A. J. Anselm as superintendent of its plant for the purpose, among other things, of breaking the Union; (c) petitioner physically isolated one of its employees, John Kondrath, who was president of the Union, from the other employees at the plant, and forbade him to associate or talk with them; (d) petitioner on September 10 and 21, 1936, and February 17, 1937, and at all times thereafter, refused to bargain collectively with the Union as representative of its employees although for some time prior to September 10 and at all times thereafter the Union had been designated by a majority of petitioner's employees in the appropriate unit as their representative for collective bargaining; (e) petitioner on September 10, 1936, and thereafter attempted to organize a labor organization among its employees and to that end threatened its employees with loss of employment if they failed to join such organization; (f) petitioner on or about February 27, 1937, and thereafter until the issuance of the complaint, sent various persons to the homes of its employees who because of the foregoing unfair labor practices had theretofore, on February 17, gone on strike, and offered to reinstate such employees as individuals if they would abandon the rights guaranteed them by section 7 of the Act; (g) petitioner on February 17, 1937, discharged 92 named employees, and on February 27, 1937, and thereafter, refused to reinstate them, because of their Union affiliation and organizational activities; (h) petitioner on and after February 27, 1937, caused to be organized, and dominated, supported, and interfered with, a labor organization of its employees known as Basic Metal Workers of America, Local No. 1.

Petitioner answered, denying all the allegations of the complaint, and averred with respect to the alleged discharge of employees that it had discharged and refused to reinstate them for cause, in that during and in connection with the strike they had seized petitioner's plant and by force and violence retained possession of it and resisted arrest; that the persons engaged in the illegal seizure and occupancy of petitioner's buildings on February 17, 1937, were on that date, upon their refusal to vacate the premises, discharged for the seizure and retention of the plant and for no other reason; that petitioner was under no duty to reinstate those who had either participated in the plant seizure and been discharged therefor or had aided and abetted in the illegal and violent retention of the plant with full knowledge of the injunction; that petitioner was not obliged to reinstate certain of the individuals named in the complaint by reason of their

inefficiency in performing their required duties; that petitioner's plant had undergone an internal reorganization in which there had been abolished, for efficiency purposes, a number of positions formerly occupied by certain of the persons named in the complaint; that Lodge 66 was not on the dates in question the bona fide representative of a majority of its employees and accordingly was not a proper bargaining agency; and that Rare Metal Workers of America Local No. 1, was organized and conducted without any suppression, domination, or interference from petitioner.

Pursuant to the notice the hearing was had before a Trial Examiner who, on September 2, 1937, filed his report finding that petitioner had engaged in and was engaging in unfair labor practices within the meaning of section 8, subdivisions 1, 2, 3, and 5, of the Act, and recommended that petitioner cease and desist from such practices and take certain affirmative action to remedy them. A general statement of the facts adduced before the Examiner will be helpful in appraising the Board's findings and conclusions.

The petitioner was and is engaged in the production, processing and fabrication of rare metals in North Chicago. In its principal departments its work is highly technical and scientific. During the summer of 1936 Local 66 was formed by a small group of petitioner's employees, with the aid of field representatives of the Amalgamated Association of Iron, Steel and Tin Workers of America. Following a membership drive a committee of Local 66 met with petitioner's plant superintendent, Anselm, on September 10, 1936. It presented a contract containing provisions for regulation of working conditions, a closed shop, check-off system, and recognition of the union. The superintendent objected to the closed shop and check-off provisions. He also took exceptions to the recognition of an outside union and asked the committee to consider an employees' representation plan. The closed shop demand was subsequently withdrawn, but the superintendent declined to acquiesce in the other demands. The committee, accompanied by its organizer, called again on September 21, 1936, but no agreement was entered into. On neither of these dates did Local 66 represent a majority of petitioner's production and maintenance employees, which was the unit for which the demands were made.

No further meetings were held or requested until February 17, 1937. That morning a large committee of Local 66 presented to Anselm a request for recognition of their union. He rejected the request and suggested that they return at 2 P. M. They returned at that time, and he announced there was no change in the company's position. He questioned the constitutionality of the National Labor Relations Act and called their attention to the fact that the Supreme Court had not yet ruled upon its validity. No agreement having been reached, the committee withdrew and held a brief secret meeting in the chemical building, wherein it was determined to engage in a sit-down strike.

Within half an hour after the afternoon conference began, about a hundred men seized two key buildings of the plant. Foremen and other employees were requested to leave with the warning that they had better do so peaceably. The buildings were then locked and barricaded from the inside, which effected a complete stoppage of the operations of the entire plant.

About four hours after the seizure, Anselm, accompanied by the company's counsel and two police officials, sought entrance into the buildings and demanded surrender of possession. Upon the occupants' refusal, counsel for the petitioner, by order of its president, addressed to the occupants in loud tones that all of the men remaining within the buildings were discharged for the violent seizure and occupation of the buildings. It was stipulated that at the time of such discharge the number of occupants, their identity and their union affiliations, if any, with eight or ten exceptions, were totally unknown to petitioner or anyone connected with its management, and that the discharge was a blanket discharge of all the men then in occupation of the buildings.

That same evening there were passed into the buildings written notices that the next morning petitioner would apply to the Circuit Court of Lake County, Illinois, for a temporary injunction against the continued illegal occupancy of its property. This was done, and after a hearing, at which counsel for Local 66 and the individual defendants appeared and were heard, the court found that the seizure and occupancy were illegal. Thereupon a mandatory injunction was issued directing the occupants of the buildings to vacate them and restore possession to petitioner. The sheriff, accompanied by several deputies, went to the buildings and attempted to gain entrance to serve and execute the writ, but all were refused by the occupants. The sheriff and his deputies then read the writ to the occupants, and passed copies of it into the buildings through the open windows. The occupants refused to comply with the injunction and announced their intention to remain in the buildings. Thereupon the court issued a writ of attachment for the occupants to show cause why they should not be held in contempt. On the morning of February 19, 1937, the sheriff, accompanied by about one hundred deputies, attempted to serve the writ. They read it to the occupants, but they refused to come out of the building. Thereupon the officers attempted to force an entrance into one of the buildings. With axes and battering-rams they succeeded in breaking down one door, but they were met by pressure streams of fire extinguishing chemicals fed from large tanks and directed by the occupants. At the same time the occupants in the upper floors of both buildings began bombarding the officers with large quantities of sulphuric acid and heavy steel and iron missiles, including pipes, bolts, nuts, reamers, wire reels and sharp end tools. The sulphuric acid was poured from the windows and hurled in quart bottle containers at the officers, as a result of which some of the officers were burned by the acid, and others were



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injured by the missiles. To protect his men, the sheriff withheld and employed tear gas in an effort to dislodge the occupants. This served only to increase the intensity of the barrage of missiles, acid, and the officers were compelled to leave without carrying out the court's order.

The sit-down strikers continued their occupancy of the buildings until the morning of February 26, 1937, when the officers again returned and attempted to gain entrance. This was met by a lively resistance of the occupants, but more violent in its character. It was stipulated at the hearing that the officers were then compelled to use tear and emetic gas, and by so doing they succeeded in accomplishing the eviction, and restoring possession to the petitioner. It was further stipulated that fourteen of the men named in the Board's complaint, knowing of the injunction, procured and delivered to the occupants the food, equipment and supplies which enabled them to retain possession of the buildings. Sixty-six of the men named in the complaint were admittedly participants in the seizure and retention of the plant, and had full knowledge of the injunction.

After their eviction those occupants who could be found were seized by the sheriff under the writ of attachment, and were subsequently tried for contempt by the Circuit Court of Lake County. Thirty-seven of the men who participated in the seizure of the plant were convicted and fined in sums ranging from \$100 to \$300, and sentenced to jail imprisonment for respective terms ranging from ten to one hundred eighty days. An appeal from this judgment was prosecuted to the Appellate Court of Illinois, and the judgment was affirmed May 10, 1938. *Fansteel Metallurgical Corporation v. Lodge 66 of Amalgamated Ass'n of Iron, Steel, and Tin Workers of North America, et al.*, 14 N. E. (2d) 991. The hearings on contempt with respect to the other occupants were continued until further order of the court. There ensued a full hearing on the merits of the case and a decree was entered adversely to the defendants in that case. No objection to that decree was interposed, and no appeal therefrom has been prosecuted.

The record discloses the following losses directly suffered by the petitioner, as a result of the men's participation in the seizure, retaining possession of the plant, and resistance to the officers. Most of the windows and many of the sashes were broken to obtain air in combatting gas, and to provide openings for throwing missiles at the officers. Numerous small tools and parts were lost; large quantities of acid, 50,000 valuable contact points and other inventory materials were lost or rendered useless by being dropped from the windows; two furnaces were permitted to cool rapidly and burn out; foamite and other chemicals from the fire extinguishers damaged the buildings and ruined a large Niagara shear; and other physical injury was occasioned by the use of the buildings for living quarters. Uncontradicted evidence of petitioner's president disclosed that the injury to buildings, equipment, and inventory amounted to more than \$10,000;

the loss of fixed charges and overhead expense amounted to \$20,000; and loss through inability to make shipments amounted to \$30,000. Within ten days after the eviction, operations were resumed, and the president made the following statement: "\* \* \* From a preliminary inspection and survey of plants three and five, we have arrived at the tentative conclusion that:

- (1) There has been no major injury to the machinery itself.
- (2) Materials, parts, and supplies of an approximate value of \$25,000 have been destroyed or otherwise rendered useless.
- (3) Physical injury to the buildings themselves, including broken window panes, has resulted in damage of approximately \$7,500.

"All of the men who participated in the sit-down strike were discharged by the company. It has been the company's consistent belief that more than half of the 80 men who participated in the seizure of the plants were compelled to do so through coercion and intimidation. Applications for re-employment from such men will receive favorable consideration.

"We cannot condone the defiance of the courts or the resistance with violence to the enforcement of the law. For the men who participated in such unlawful activities, there can be no place in our plant.

Twelve of the men who had voluntarily left the buildings before the eviction, and twenty-three who remained until evicted, filed applications for re-employment and were hired. None of those sentenced for contempt was re-employed. Many old employees returned and the vacant places were filled by new applicants. Sixty-one men and women who returned to work were members of Lodge 66, and were reinstated without any condition as to union membership or activity.

When the plant was reopened changes were made in the interest of more economical operation. As a result thereof numerous jobs were abolished, others were materially altered and substantial savings were effected in many departments.

About the middle of April 1937, hourly production employees of appellant organized the Rare Metal Workers of America, Local No. 1. Supervisory employees did not directly participate either in the organization of that union, or the management of its affairs. However, petitioner did suggest the organization of such a union, and expressed its approval of Local No. 1, when informed of its inception. Local No. 1 was accorded the use of petitioner's mimeograph machine for printing ballots, and the use of its bulletin boards for posting notices. Its two first meetings and its election for selecting a bargaining agent were held in petitioner's buildings, and immediately thereafter it was recognized by petitioner as the collective bargaining agent for the employees, although the Lodge never attempted to bargain with petitioner.

The Board found that approximately seventy per cent of the petitioner's business constituted or directly affected interstate or foreign

commerce; that petitioner employed a labor spy to engage in espionage within the Union, and physically isolated its president from the other employees at the plant, thereby interfering with, restraining and coercing the employees within the meaning of section 8 (1) of the Act; that on February 17, 1937, and at all times thereafter a majority of petitioner's employees within the unit found by the Board to be appropriate, had designated the Union as their collective bargaining representative, within the meaning of section 8 (5) of the Act; that, as a result of the foregoing labor practices, the employees went on strike on February 17, 1937, taking over and holding from that date until February 26, two of petitioner's key buildings on which last date they were evicted by the officers, pursuant to an injunction issued by the state court; that although the strikers resorted to violence in resisting arrest and eviction by the officers, no sabotage of equipment occurred; that at the outset of the strike petitioner announced that all strikers who remained in the plant were discharged, but that this did not constitute a discharge in fact, and the strikers at all times remained employees of petitioner; that on March 3 and 5 petitioner again refused to bargain collectively with the Union, but sent agents among the strikers to certain of those who had participated in the sit-down strike and resisted eviction, as well as others, requesting them to return to work, individually, under the conditions existing at the time the strike was called; that at the time of the hearing, although the plant had then been reopened and in operation for several months, the 92 strikers named in the complaint were still out on strike. Many of them had refused the solicitation of petitioner's agents to return to work, insisting that before they would do so petitioner first should recognize the Union and bargain collectively with it.

It was further found that petitioner had dominated and interfered with the formation and administration of the Rare Metal Workers of America, Local No. 1, and had contributed support to it, in violation of Section 8, (2) of the Act.

The Board found that none of the persons named in the complaint was discharged or denied reinstatement by reason of union membership or activity, and the discharge of the men in occupancy of the buildings for their seizure and retention of the petitioner's plant was held not to constitute a discriminatory discharge.

It also found that neither on September 10 nor on September 21, 1936, did Lodge 66 represent a majority of the employees in the appropriate unit.

On February 17, 1937 (the day of the plant seizure), membership in Lodge 66 was found to exceed a majority of the employees in the appropriate unit, and the Board held that by failing to bargain with Lodge 66 on that date petitioner engaged in an unfair labor practice. The decision states that while some of the employees returning to work may have abandoned membership in Lodge 66, the petitioner must nevertheless now recognize and bargain with Lodge 66 as the representative of all of its employees.

Having found that the petitioner failed to bargain collectively with Lodge 66 on the day the sit-down strike occurred, the Board ordered the status quo on that day restored. The petitioner was directed, upon application, to re-employ all individuals who ceased work on that day.

The Board declined to award any back pay upon the grounds that the petitioner had not been guilty of discrimination and no application for reinstatement had been made. On the matter of reinstatement the Board's decision made no reference to the discharge. It merely required reinstatement of all who ceased work on February 17, regardless of their conduct, including the thirty-seven who were convicted and sentenced, upon the ground that petitioner's failure to bargain on February 17 was the moving cause of the employees' conduct. With the internal reorganization and resultant continuance of jobs the Board took no notice other than to suggest that after the reinstatement as ordered the petitioner might then reorganize or reduce its staff.

The record in this case is voluminous, and our problem is to determine whether there is substantial evidence to support the findings that petitioner violated the provisions of section 7 and section 8, subsections (1), (2), and (5), of the Act.<sup>1</sup> A perusal of the evidence convinces us that there is substantial evidence to support the finding that petitioner employed men to engage in espionage within the Union and thus interfered with, restrained, and coerced its employees within the meaning of section 8 (1). It may also be said that there is substantial evidence to support the finding that petitioner contributed support to the organization of the Rare Metal Workers of America, Local No. 1, in violation of the literal interpretation of section 8 (2). With the weight of the evidence on these questions we are not permitted to concern ourselves.

With respect to the Board's findings and conclusions relating to petitioner's violation of section 8 (5) we are unable to concur, because some of the facts upon which the conclusions are said to be based are not only not supported by substantial evidence but the contrary is undenied. The difference of opinion in this respect arises over the questions whether petitioner had good cause to discharge the sit-down strikers on February 17, and, if so, did the petitioner at that time discharge them? There seems to be no denial by the Board that there was ample cause for discharge. Indeed, in the argument

<sup>1</sup>Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, for the purpose of collective bargaining or other mutual aid or protection.

Sec. 8. It shall be an unfair labor practice for an employer—  
(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: \* \* \*

(3) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a).

Sec. 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: \* \* \*



before this court the Board admitted that the men in conducting sit-down strike and resisting the officers "did a foolish and illegal act." Certainly it cannot be denied that an employer is warranted in discharging his employees and severing that relationship when they take and retain exclusive possession of his property against his will. They had a complete and adequate remedy, without cost to them, of turning the hands of the Board, by the use of which they would have been able to obtain nothing in time or wages, if their cause were just. The employees, however, had no coordinate right in this respect. The employees, however, spurned this legal remedy, disregarding all law on this subject, and essayed to settle the difficulty according to their own sense of right and justice and contrary to the better thought of those who really have at heart the best interests of all laborers. In this they violated the law which they now seek to enforce against petitioner. We are convinced that petitioner was warranted in discharging the employees, and we are compelled to so hold in order to avoid placing our approval upon such activities as they engaged in. To do otherwise would be an injustice not only to the employer but to the unions and their friends who wish them well.

Appellee contends that the petitioner did not actually discharge the employees. It is not denied, however, that it told them they were discharged, and why. The reason given was not that they were striking, or that they were members of a union, or that they were attempting to organize petitioner's plant, or that they were seeking to bargain with it with respect to wages, hours, or conditions, but, in language which could not be misunderstood, they were notified that it was because of their violent seizure and retention of the buildings. The Board seeks to parry the force of this notice by finding that petitioner did not really intend it as a discharge, and that the occupants did not think that it was so intended. This conclusion is not claimed to be based upon any direct statement to that effect by any representative of the company, but upon certain subsequent circumstances from which it is said petitioner's negative intention may rationally be inferred. For instance, it is said, and truly, that petitioner afterwards re-employed many of these occupants, some of whom actually participated in the illegal acts, thus disclosing that petitioner never intended to discharge them. We think this is a non-sequitur. It is undisputed that petitioner at all times believed that more than fifty per cent of the occupants were compelled to participate in the seizure through coercion and intimidation, and it stated that applications for re-employment from such men would receive favorable consideration. The word re-employment would seem to indicate a former discharge and severance of relationship, at least it is not inconsistent with such indication. While several of the men who participated in the violence were also re-employed, yet, for the same reason we think that fact does not militate against the uncontradicted evidence that they were all discharged on February 17. It is also worthy of note that the fact that those re-employed were union men, or had been,

would certainly support petitioner's contention that they were not discharged because of union membership, or lawful union activities. It is further suggested by respondent, we suppose by way of mitigating circumstances, that the men were not engaged in sabotage, and that no malicious sabotage of equipment occurred. Both of these findings were made, and we think neither was supported by substantial evidence. Indeed, the contrary was supported by undisputed evidence. True, there was evidence to the effect that there was no major serious injury to the machinery, but machinery is not the only part of a plant that may be the subject of sabotage, and it does not constitute the entire equipment of a plant. Malice may be either express or implied. It may be implied from acts themselves. Within the meaning of the law it includes not only hatred and revenge, but every other unlawful and unjustifiable act. It is not confined to ill-will towards an individual, but it is intended to denote an action flowing from any wicked and corrupt motive; a thing done with a wicked mind, and attended with such circumstances as plainly indicate a heart regardless of social duty and fully bent on mischief. Here we have an admitted illegal seizure and retention of property, intentionally perpetrated; and intentional destruction of property with respect to the plant and portions of its equipment, supported by undisputed evidence. This we think conclusively shows a heart regardless of social duty and bent on mischief. But whether or not there was sabotage is not decisive of this case. Without it there still remained to petitioner a valid cause for discharge, which is supported by uncontradicted evidence, admitted by counsel in argument and not denied in the findings. Neither is it denied, but it is admitted, that petitioner told the men on February 17, that they were discharged, and we think this can not be brushed aside by a finding that petitioner did not intend to discharge them, based only on the fact that it afterwards re-employed some of them. This being true, the occupants of the building who were discharged on February 17 were no longer employees of petitioner, and none of them sustained that relationship again until they were re-employed. Hence there was no longer a majority of petitioner's employees who were members of that union, and the finding to the contrary is not supported by any evidence.

It is urged by the Board that the commission of a crime by strikers does not preclude their right to bargain with petitioner. This we admit, provided they still are employees and represent a majority of all. What we hold is that there was just cause for discharge, it was exercised, and those who have not been re-employed are not employees and were not at the time of the finding and order of the Board. The present employees still have their rights of bargaining without interference of the petitioner, and these may be enforced upon proper procedure. See *National Labor Relations Board v. Jones and Laughlin Steel Corp.*, 301 U. S. 1; *National Labor Relations Board v. The Sands Mfg. Co.*, decided by the Court of Appeals for the Sixth Circuit, May 13, 1938; *Standard Lime and Stone Co. v. National*



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Labor Relations Board, decided by the Court of Appeals for Fourth Circuit, June 13, 1938.

The order is set aside.

LINDLEY, District Judge, concurring: The difference between associates apparently grows out of the question of whether the employer for good cause terminated the relationship of employer employee as to the trespassers who seized its property and other violated the state law. That such seizure did occur is undisputed that the act was "illegal" and "foolish" the respondent admitted, indeed, such characterization of the act is that of counsel for respondent. In fact, it has been finally adjudicated by the state courts upon appeal, after full hearing, that certain employees seized the plant, locked and barricaded it from the inside, employed fire extinguishers, chemicals belonging to the employer to repel attempts of law enforcement officers to enforce judicial orders, bombarded the officers with sulphuric acid and pipes, bolts, nuts, and similar steel and iron articles. Many other acts of violence by the trespassers ensued, resulting in damage to and loss of property seized of the value of many thousands of dollars. "Illegal and foolish" are mild descriptive terms for the uncontradicted events.

Thereupon, directly and clearly, the petitioner discharged the wrongdoers solely because of their illegal acts. The evidence justified no equivocation as to that conclusion. The discharge was justified and the employer was not thereafter under any obligation and sustained no relationship to the discharged men. They were no longer employees; consequently the Board's order being based erroneously (in part) upon a contrary premise, must be vacated. I do not think the law intends that an employer who has discharged acknowledged law violators can be compelled to reinstate them and in case of refusal be said to be, because of such action, a violator himself of the national law. I find nothing leading me to believe that Congress so intended.

In *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1, 45-6, the court pointed out that the act does not interfere with normal exercise of the right of the employer to select its employees or discharge them, and then continued:

"The employer may not, under cover of that right, intimidate or coerce its employees with respect to their self-organization and representation, and, on the other hand, the Board is not entitled to make its authority a pretext for interference with the right of discharge when that right is exercised for other reasons than such intimidation and coercion."

When we remember that the discharge in the instant case was grounded solely upon the wilful illegal acts of certain employees, and not upon membership in the union, a fact that is fortified by the re-employment of certain of the trespassers who were members of the union, it is apparent that under the decision of the Supreme Court the Board may not treat it as unjustified. This conclusion is supported also by the language of the Supreme Court in *Associated*

*Case v. National Labor Relations Board*, 301 U. S. 103, 132, as follows:

The act does not compel the petitioner to employ anyone; it does not require that the petitioner retain in its employ an incompetent editor or one who fails faithfully to edit the news to reflect the facts without bias or prejudice. The act permits a discharge for any cause other than union activity or agitation for collective bargaining with employees. The restoration of Watson to his former position is no sense guarantees his continuance in petitioner's employ. The petitioner is at liberty, whenever occasion may arise, to exercise its undoubted right to sever his relationship for any cause that seems to it proper save only as a punishment for, or discouragement of, such activities as the act declares permissible."

See also *Standard Lime & Stone Co. v. National Labor Relations Board*, C. C. A. 4, June 13, 1938; *Appalachian Elec. P. Co. v. Labor Board*, 93 Fed. (2d) 985.

THANOR, Circuit Judge, dissenting: My disagreement with the reasoning and result of the majority decision rests upon a difference of opinion as to the respective powers of the National Labor Relations Board and this court in the determination of the legal consequences to be attached to the unlawful acts of striking employees. It is, in short, my understanding of the National Labor Relations Act that when employees have ceased work in connection with a labor dispute or because of an unfair labor practice, the employer-employee relationship continues by force of law; and that although unlawful conduct by striking employees is a fact which must be considered by the Board in determining the scope of its order, such order cannot be set aside by this court unless the making of the order constitutes an abuse of discretion by the Board in view of all pertinent facts, including the fact of misconduct of the employees.

The National Labor Relations Act presupposes the existence of two basic facts: (1) A denial by employers of the right of employees to organize, and a refusal by the employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife or unrest; and (2) the necessary effect of the foregoing is to burden or obstruct commerce. It is the policy of the United States, as declared by the Act, to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate these obstructions when they have occurred by encouraging practices and procedure of collective bargaining, and by protecting the exercise by workers of full freedom of association, self organization, and decision of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection. The procedural mechanism created by the Act and the powers conferred upon the National Labor Relations Board are carefully chosen to make effective the foregoing policy. The Act declares that certain designated labor practices shall be "unfair labor practices" and empowers the Board to prevent, by

means provided in the Act, any person from engaging in any unfair labor practice affecting commerce.

The Board is without power to attach any punitive consequences to unlawful conduct of employees occurring in connection with labor disputes or strikes. Indeed, the legislative history of the Act discloses that such power was intentionally withheld from the Board; and that it was the congressional intention to leave unlawful conduct of employees of labor unions to be dealt with under the appropriate laws of the states and of the United States.<sup>1</sup> This one-sided feature has been criticized, but the judicial answer was given by the United States Supreme Court in *Labor Board v. Jones & Laughlin*.<sup>2</sup>

While the Act does not purport to relieve striking employees from the legal consequences of unlawful acts committed in connection with a strike, Section 13 provides that "nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike." The only conduct with which the Act purports to deal is the conduct of employers which comes within the legislative definition of unfair labor practices which are made unlawful by the Act itself; and which, apart from statutory regulation, are not unlawful.

But it is urged that the "sit-down" feature of the strike, plus the violence of the strikers when they resisted the efforts of officers to evict them from the petitioner's buildings, gave their employer sufficient cause to sever the employer-employee relationship, and that the employer did sever the relationship by discharging the strikers a few hours after the beginning of the strike. If the employer, in fact and in law, terminated the employer-employee relationship, it necessarily follows that that part of the order of the Board which required reinstatement was erroneous, since it is clear that the Board has power to reinstate only by ordering the employer to put back to work persons whose status, or relationship, of employee is preserved by the National Labor Relations Act. Respondent, National Labor Relations Board, insists that the purported discharge of the strikers

<sup>1</sup> "Nor can the committee sanction the suggestion that the bill should prohibit fraud or violence by employees or labor unions. The bill is not a mere police court measure. The remedies against such acts in the State and Federal courts and by the invocation of local police authorities are now adequate, as arrests and labor injunctions in industrial disputes throughout the country will attest. . . . In addition, the procedure set up in this bill is not nearly so well suited as is existing law to the prevention of such fraud and violence. . . . The only result from introducing proposals of this sort into the bill in the opinion of the committee, would be to overwhelm the Board in every case with counter-charges and recriminations that would prevent it from doing the task that needs to be done." (Sen. Rep. No. 573, 74th Cong. 1st Sess. (1935), pp. 16, 17. See also H. R. No. 1147, 74th Cong., 1st Sess. (1935), pp. 16, 17.)

<sup>2</sup> 301 U. S. 1, 46.  
 "The act has been criticized as one-sided in its application; that it subjects the employer to supervision and restraint and leaves untouched the abuses for which employees may be responsible; that it fails to provide a more comprehensive plan—with better assurances of fairness to both sides and with increased chances of success in bringing about, if not compelling, equitable solutions of industrial disputes affecting interstate commerce. But we are dealing with the power of Congress, not with a particular policy or with the extent to which policy should go. We have frequently said that the legislative authority, exerted within its proper field, need not embrace all the evils within its reach. The Constitution does not forbid 'cautious advance, step by step,' in dealing with the evils which are exhibited in activities within the range of legislative power. *Carrol v. Greenwich Insurance Co.*, 190 U. S. 401, 411; *Keokee Coke Co. v. Taylor*, 234 U. S. 224, 227; *Miller v. Wilson*, 236 U. S. 373, 384; *Sproles v. Binford*, 286 U. S. 374, 396. The question in such cases is whether the legislature, in what it does prescribe, has gone beyond constitutional limits."

was not in fact a discharge and was not so intended by the employer and not so understood by the striking employees. There is evidence which indicates that the action of the employer was intended merely to strengthen the bargaining position of the employer by weakening the force of the strike. The tenor of the negotiations with individual strikers after the strikers had been evicted from the plant buildings was consistent with the assumption that the employer still considered them to be striking employees. But granting that the petitioner intended to sever the employer-employee relationship, we are confronted with the plain language of the Act which, as a matter of law, continues the employer-employee relationship for purposes of the Act.<sup>4</sup> The reasonable construction is that one who is an employee at the inception of a labor dispute or unfair labor practice, and ceases work because of either, remains an employee as long as the labor dispute is "current" or as long as the unfair labor practice is cognizable by the Board as an obstruction to commerce. The obvious purpose of the Act is to continue the employee relationship as an instrumentality to be used by the Board as the basis of a reinstatement order, or other affirmative action and to avoid any factual controversy, such as in the instant case, respecting the continuance of the relationship.

In the instant case the striking employees were individuals whose work had ceased "in consequence of" and "in connection with" a current labor dispute, and the immediate cause of the cessation was the unfair labor practice of petitioner committed on February 17, 1937. Further, there was no contention that any of the individuals whose work had ceased had obtained "any other regular and substantially equivalent employment." The law of the National Labor Relations Act, applied to the facts of the instant case, required the Board, and requires this court, to recognize that the striking employees continued to have the status of employees for the purposes of the Act. And assuming that the misconduct of the striking employees was a material fact to be considered by the Board in making its decision, still no decision or order of the Board legally could have been predicated upon the assumption that the employer-employee relationship was terminated by the purported discharge of the men at a time when their work already had ceased as a consequence of, and in connection with, both a current labor dispute and an unfair labor practice by their employer.

There is substantial evidence to support a finding that the petitioner engaged in unfair labor practices in the following respects:

(1) Petitioner, prior to February 17, 1937, consistently interfered with, restrained, and coerced its employees in their attempted exercise of rights guaranteed by the Act.

<sup>4</sup>Third. The strikers remained employees under Section 2 (3) of the Act which provides: The term "employee" shall include . . . any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice, and who has not obtained any other regular and substantial equivalent employment. . . . Within this definition the strikers remained employees for the purpose of the Act and were protected against the unfair labor practices denounced by it." National Labor Relations Board v. Mackay Radio & Tel. Co., Supreme Court of the United States, May 16, 1938.



(2) On February 17, 1937, petitioner refused to bargain collectively with the Union, which at that time was the legal representative of the employees, who as an appropriate unit, were seeking to bargain collectively with the Union as their agent.

(3) Subsequently petitioner refused at different times to bargain collectively with the Union as the representative of the striking employees.

(4) Petitioner "dominated and interfered" with the formation and administration of the R. M. W. A., a company union, which was organized subsequently to February 17, 1937.

The Board is empowered to prevent any person from engaging in any unfair labor practice affecting commerce<sup>3</sup> by issuing an order requiring the employer to cease and desist from any unfair labor practice. And on the basis of its findings, the Board clearly is empowered to issue the cease and desist order in question unless the conduct of the striking employees in some way paralyzed the power of the Board and rendered it impotent to carry out the express purpose and policy of the Act by taking the specific action which the statute empowers it to take. It is, therefore, necessary to consider the materiality of misconduct of employees to the exercise of the powers by the Board.

The power of the Board extends only to action to prevent unfair labor practices by employers and the Board has no power to control or punish conduct of employees, either directly by imposing penalties or indirectly by relieving employers of the consequences of unfair labor practices. The conduct of employees prior to the commission of an alleged unfair labor practice is a material fact which the Board cannot ignore in determining whether the employer has engaged in unfair labor practices, but it is not available as a bar to the issuance of a cease and desist order when the evidence supports a finding that the employer has engaged in an unfair labor practice. And in *National Labor Relations Board v. Carlisle Lumber Company*,<sup>4</sup> the Ninth Circuit Court of Appeals held that enforcement of the National Labor Relations Board's cease and desist order would not be denied under the clean hands doctrine on the ground that picketing by the members of the Union, with which the employer had refused to bargain collectively as employees' agent, had resulted in violence and had violated state laws. The court disposed of the question in the following statement, p. 146:

"Respondent contends that the proceeding before us is an equitable proceeding; that the union's picketing resulted in violence, as the Board found, which was a violation of the laws of Washington, and therefore enforcement should be denied for the reason that the union has not come into the court with clean hands. It is not the union but the Board which is asking enforcement."

<sup>3</sup> Title 29 U. S. C. A. § 160 (a) "The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 158) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise."

<sup>4</sup> 94 Fed. (2d) 138, 146.

the Second Circuit Court of Appeals has held that an employer may not refuse to negotiate with a union because of its past misconduct if the union offers in good faith to negotiate as the representative of employees.<sup>7</sup> The following statement from the opinion is pertinent to the facts of this case:

For this reason, the conduct of a union, like that of an employer, is only during the negotiations when there are any but before there may be relevant in ascertaining whether the proposal to confer genuine or only part of the tactics of the fight. Nothing else can material; though the union may have misconducted itself, it has no poenitentiae; if it offers in good faith to treat, the employer must not refuse because of its past sins. In the case at bar there was no warrant whatever for supposing that further negotiations would have been useless."

In the instant case no misconduct of members of the union, either as employees of petitioner or as representatives of the bargaining unit, occurred prior to the unfair labor practices in which the petitioner had engaged prior to and including February 17, 1937, and which culminated in the bald refusal on February 17, 1937, to bargain collectively. Consequently, the misconduct could not affect the validity of the Board's order insofar as it required the petitioner to cease and desist from those unfair labor practices. And if I am correct in believing that the strikers continued to be employees for the purpose of the exercise by the Board of its powers under the Act, the misconduct could not have vitiated the power of the Board to attempt to remedy by a cease and desist order the effects of the unfair labor practices engaged in subsequently to February 17, 1937, since the evidence discloses that the striking employees were continuously willing to enter into good faith negotiations with the petitioner. (*National Labor Relations Board v. Remington Rand, Inc.*, supra; *National Labor Relations Board v. Carlisle Lumber Co.*, supra.)

In respect to the reinstatement provision of the Board's order the petitioner makes the point that the Board is authorized to take only such affirmative action as will effectuate the policies of the Act; and says that the reinstatement of the individuals who participated in unlawful acts would militate against, rather than effectuate, the policies of the Act. In my opinion petitioner is right in its contention that the authority of the Board in respect to affirmative action is limited to such action as will effectuate the policies of the Act. Consequently, it does not follow that the Board must reinstate all or any employees even though it properly finds that the employer has engaged in unfair labor practices and must, therefore, issue a cease and desist order. This is clear from the language of the pertinent section which definitely fixes the content of the cease and desist order but leaves the content of the order, requiring affirmative action by the employer, in the discretion of the Board, subject only to the qualification that it effectuate the policies of the Act.

<sup>7</sup>*National Labor Relations Board v. Remington Rand, Inc.*, 94 Fed. (2d) 862, 872-3.



It was held in *National Labor Relations Board v. Mackay Radio & Telegraph Co.*, *supra*, that the Board properly ordered reinstatement of employees who were refused reinstatement by the employer because of their union activities. But the unfair labor practice complained of in that case was the alleged discrimination in reinstatement of employees. Obviously such order of reinstatement effectuated a policy of preventing that particular type of unfair labor practice. On the other hand the Mackay opinion states that an employer has not been engaged in any unfair labor practice has not lost the right to protect and continue his business by supplying places vacant by strikers; and that the employer is not engaging in an unfair labor practice either when, in order to obtain employees to fill strikers' places, he assures them of permanent employment when he reinstates only enough to fill vacant places. But the foregoing observations were applied to a case in which the employer had gone on a strike in connection with a labor dispute and abandoned their strike before any unfair labor practice had been committed by the employer. The only unfair labor practice charge was the discriminatory refusal to reinstate five men. And the Supreme Court upheld the Board's order requiring the reinstatement of the five men. In the instant case before the strike and during the pendency of a labor dispute the employer had engaged in unfair labor practices of the type which, if persisted in, would completely nullify the policies of the Act. The positive refusal on February 1, 1937, to recognize and bargain with the union, which was the lawful bargaining agent of the employees, precipitated the strike. It is the position of the Board that the status quo must be restored as of the time of the unfair labor practice of February 17, 1937, in order to effectuate the policies of the Act; and that this necessitates the reinstatement of all the members of the appropriate bargaining unit and the recognition of the union as the bargaining agent for the unit. The general principle seems sound under the Act and is amply supported by the reasoning and decisions in *National Labor Relations Board v. Remington Rand, Inc.*, *supra*, and *Black Diamond S. S. Corporation v. National Labor Relations Board*.<sup>2</sup> In the latter case various groups of employees had ceased work in connection with labor disputes before any unfair labor practices had occurred. Later there was a refusal, on December 14, 1937, to bargain collectively with the lawful agents of appropriate units. The following statements by the Second Circuit Court of Appeals in its opinion in the Black Diamond Case are of special significance in determining the validity of the reinstatement feature of the Board's order in the instant case: "The act so far as reinstatement is concerned only applies after there has been an unfair labor practice. As we have said in the opinion in *National Labor Relations Board v. Remington Rand, Inc.*, 2 Cir., 94 F. 2d 862, to be filed herewith: 'the powers granted the Board under section 10 (c), 29 U. S. C. A. § 160 (c), are only

<sup>2</sup> 94 Fed. (2d) 875, 879.

...; they are designed to enable it to restore the status quo in so far as possible, had the wrong not been committed; further it is not to go."

Under the act men who cease working because of a labor dispute because of an unfair labor practice retain the status of employees. How long this continues is not made clear. But it is not necessary to decide the point here. All engineers were employees under the act who had left work in consequence of labor disputes. But, having done so before any unfair labor practice, they were relying, and were not entitled to rely, upon a test of economic strength. They struck at a time when the Board was conducting an election. Since the act expressly leaves the right to strike unaffected, any remedies they had were unaffected by continuing on strike. When on December 14, 1936, the Black Diamond refused to bargain with the certified bargaining agent of its employees, it violated the act and became subject to such orders of the Board 'as will effectuate the policies of this act (chapter).' Section 10 (c), 29 U. S. C. A. § 160 (c).

From the date of the respondent's first unfair practice, its ordinary right to select its employees became vulnerable. Accordingly it was proper for the Board to order it to discharge all engineers hired for the first time since December 14, 1936, and to offer reinstatement first to those striking engineers whose former positions were open, and then to the other striking engineers if, for any reason, any man entitled to reinstatement refused to accept it. To those men so reinstated the company must also give back pay. This is the extent of the order.

" \* \* \* They say that in the Supreme Court's recent decisions sustaining the Wagner Act, 29 U. S. C. A. §§ 151-166, the persons reinstated had been discharged because of union membership or activity, whereas here the severance of relations was voluntary. But under section 2 (3) of the act, 29 U. S. C. A. § 152 (3), the striking engineers still remained employees, and to 'effectuate the policies of this act (chapter),' section 10 (c), 29 U. S. C. A. § 160 (c), no more is done than to maintain the status quo which existed on December 14, 1936, as against unfair labor practices which occurred thereafter. The facts bring the case within the rule established in *National Labor Relations Board v. Jones & Laughlin Steel Corp.*, 301 U. S. 1, and other Supreme Court decisions."

On the authority of the decisions of the Supreme Court of the United States in which the National Labor Relations Act has been construed and applied, and more particularly on the authority of the Supreme Court decision in the *Mackay* case, *supra*, and the decisions of the Second Circuit Court of Appeals in the *Remington Rand* and *Black Diamond* cases, *supra*, and the Ninth Circuit Court of Appeals in the *Carlisle* case, *supra*, I am of the opinion that the order of the Board in the instant case is in general valid.

I believe, however, that petitioner's contention that the reinstatement feature is too broad, even under the decision in the Black Diamond case, is well taken, unless the present reinstatement provision can be construed to limit the requirement of reinstatement to those for whom jobs would be available upon dismissal of all new employees who were hired after the refusal to bargain on February 17, 1937. Although management policies and practices which affect the positions of employees may be the basis of legitimate labor disputes in respect to which employees may assert their right to collective bargaining under the Labor Relations Act, yet there is no provision in the Act which purports to qualify the right of an employer to abolish unnecessary jobs either during the pendency of a labor dispute or after the commission of an unfair labor practice by an employer. In short, the National Labor Relations Act continues the employer-employee relationship for the purpose of enabling the Board to effectively prevent unfair labor practices, but does not protect striking employees from disadvantages which result from normal management action taken by the employer during the time the striking employees voluntarily refuse to work.

As indicated above, I believe that it is the duty of the Board, in determining the scope of a reinstatement order, to take into consideration unlawful conduct of striking employees when such conduct will militate against the effectuation of the policies of the Act in case of restoration of striking employees to their work. It is not within the lawful authority of the Board to order reinstatement, or refuse to order it, as a punitive measure either against employees for unlawful acts or against employers for engaging in unfair labor practices. Obviously, the threat of continued unlawful acts by striking employees should not be considered a factor favoring reinstatement; on the other hand neither should the possibility of friction between employer and reinstated employees resulting from the employer's resentment of reinstatement as a means of effectuating the policies of the Act be considered a factor favoring refusal of reinstatement. It seems that the dominating consideration should be the probable effect upon the future relations between the employer and the employees in respect to the problem of avoiding or peaceably settling industrial disputes. If, in the instant case, employees had continued their unlawful acts in disregard of the rights of petitioner, and if there had been reasonable ground for the Board to conclude that because of the continuing effect of employees' misconduct, a general reinstatement would demoralize the operation of petitioner's business and would encourage rather than discourage interruptions of production with consequent interference with commerce, then the Board should have denied a general reinstatement. This should have been done, however, not under the unrelated equity doctrine of clean hands, but because a general reinstatement reasonably could not contribute to the effectuation of the policies of the Act.

In view of the evidence which was before the Board, I do not believe that this court can hold that the Board acted arbitrarily in concluding

the return of the striking employees under a general reinstatement order would contribute substantially to the effectuation of the policies of the National Labor Relations Act.

After the eviction of the striking employees from the plant buildings there were no unlawful acts committed by the employees and no unlawful efforts to interfere with the operation of the plant. The demand for union recognition and collective bargaining was repeated and was refused. Petitioner's superintendent had authority to restaff the plant with new employees in addition to such of the old employees as he should see fit to reinstate. Thirty-five of the sit-down strikers were reinstated and many of them testified at the hearing that they had been active in resisting the officers who were seeking to evict them from the petitioner's buildings. Four strikers who testified at the hearing that they had engaged in violence, and detailed acts of violence committed by themselves, were returned to work; and these men, along with other sit-down strikers who were working for petitioner at the time of the hearing, were paid full wages for the time which was lost by reason of the sit-down strike. One striking employee testified that in a conversation with petitioner's superintendent he was told that he would be called when he was needed; that the superintendent made no objections to his return to employment because of his participation in the sit-down strike. He also testified that the superintendent shook hands with him and said "all is forgiven." There is testimony which indicates that other sit-down strikers could have returned to their jobs if they had been willing to return without union recognition and general reinstatement of the strikers.

In view of the foregoing and other evidence which is in the record it was not unreasonable for the Board to conclude that a general reinstatement of the striking employees would not result in friction between employer and employees merely because of the presence and activities of the reinstated employees. And, assuming full recognition by the petitioner of the policy of collective bargaining as provided for in the Act, the Board was justified in concluding that future peaceable settlement of labor disputes would be facilitated rather than obstructed.

It is urged that an affirmance of the order of the Board is an approval of the unlawful acts of the employees. I understand the emotional appeal involved in that contention, but cannot comprehend its relation to a judicial consideration of the question before us. It is as meaningless as would be the contention that a reversal of the order of the Board constitutes an approval of the unlawful defiance of the National Labor Relations Act by the petitioner. Granting that the employees were wrong in assuming that they could rightfully strengthen the force of their strike by remaining in possession of the building in which they worked, it is obvious that they did not make a greater mistake as to the law than did the petitioner and its advisers who believed that the petitioner could rightfully refuse to bargain collectively with the agent of the employees on the ground

that the National Labor Relations Act was unconstitutional. Striking employees paid the penalty for their resistance of the officers of the law who were acting under order of the state court. At least all did against whom proceedings were not dropped. National Labor Relations Board had no jurisdiction over that question. It does have jurisdiction over the case presented by the labor practices of the petitioner; and the question for decision by the court is whether the order of the Board made in the performance of its duties under the National Labor Relations Act was within statutory power to make on the basis of the findings which were supported by substantial evidence. With the exception above noted, I think it was.

A true copy.

Teste.

*Clerk of the United States Circuit Court  
of Appeals for the Seventh Circuit.*

And on the same day, to-wit: On the twenty-second day of July 1938, the following further proceedings were had and entered on record, to-wit:

Friday, July 22, 1938

Court met pursuant to adjournment

Before Hon. WILLIAM M. SPARKS, Circuit Judge; Hon. WALTER E. TREANOR, Circuit Judge; Hon. WALTER C. LINDLEY, District Judge.

6606

FANSTEEL METALLURGICAL CORPORATION

vs.

NATIONAL LABOR RELATIONS BOARD

Petition for Review of Order of the National Labor Relations Board

This cause came on to be heard on the petition of Fansteel Metallurgical Corporation for review of the order of the National Labor Relations Board in this cause, and on the answer thereto, the transcript of record of proceedings before the said Board, and the briefs of counsel, and was argued by counsel.

On consideration whereof it is ordered and adjudged by this Court that the Order of the National Labor Relations Board, entered on March 14, 1938, be, and the same is hereby set aside.

United States Circuit Court of Appeals for the Seventh Circuit

I, Frederick G. Campbell, Clerk of the United States Circuit Court of Appeals for the Seventh Circuit, do hereby certify that the fore-



ing typewritten pages, numbered from 1 to 31, inclusive, contain a copy of the Order taking cause under advisement, entered May 1938, Opinion filed July 22, 1938, Judgment entered July 22, 1938, the following entitled cause: Fansteel Metallurgical Corporation, Petitioner, vs. National Labor Relations Board, Respondent, No. 10, October Term, 1937, as the same remains upon the files and records of the United States Circuit Court of Appeals for the Seventh Circuit.

In testimony whereof, I hereunto subscribe my name and affix the seal of said United States Circuit Court of Appeals for the Seventh Circuit, at the City of Chicago, this 27th day of September, A. D. 1938.

[SEAL]

FREDERICK G. CAMPBELL,  
*Clerk of the United States Circuit Court of  
Appeals for the Seventh Circuit.*





## Supreme Court of the United States

*Order allowing certiorari*

Filed November 21 1938

The petition herein for a writ of certiorari to the United States Circuit Court of Appeals for the Seventh Circuit is granted, and the case is assigned for argument immediately following No. 274.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.